Unified Development Ordinance

WEDDINGTON N.C.

10-12-2026

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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 Rezonings

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
- 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)
- MX (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).

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	
	Zoning Map Change	Council	
	Conditional Zoning	Council	
Quasi-judicial	Variance	Zoning Board of Adjustment	
	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
	Construction Plans, Sign Permits, Zoning Permits, Grading Permits, and Building Permits (County)	Administrator (or Union County or third-party service provider)	
	Misc. Temporary Use Permits	Administrator	

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

TABLE 2: LIST OF APPENDICES

Appendix #	Title	UDO Section
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.

Section 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.

Section 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.

Section 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).

Section 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.

Section 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.

Section D-106. Refund of Illegal Fees. See N.C.G.S. 160D-106.

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

Section 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.

Section 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.

Section 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.

Section D-111. Effect on Prior Laws. The enactment of this UDO shall not require the readoption 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.

Section 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.

Section 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.

Section D-202. Municipal Extraterritorial Jurisdiction. [reserved]

Section D-203. Split Jurisdiction. See N.C.G.S. 160D-203.

Section D-204. Pending Jurisdiction. See N.C.G.S. 160D-204.

ARTICLE 3. BOARDS AND ORGANIZATIONAL ARRANGEMENTS.

Section 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.

Section 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.

Section 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.

Section D-304. Appearance Commission. [reserved]

Section D-305. Housing Appeals Board. [reserved]

Section 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.

Section D-307. Extraterritorial Representation on Boards. See N.C.G.S. 160D-307.

Section 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.

Section 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.

Section 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.

Section D-401. Application. [reserved]

Section 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.

Section 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	
	Zoning Map Change	Council	
	Conditional Zoning	Council	
Quasi-judicial	Variance	Zoning Board of Adjustment	
	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

	Construction Plans, Sign Permits, Zoning Permits, Grading Permits, and Building Permits (County)	Administrator (or Union County or third-party service provider)	
	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.

Section 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.

Section 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.

Section 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.

Section 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.

Section D-502. Grants, Contracts, and Technical Assistance. [reserved]

Section D-503. Coordination of Planning. [reserved]

ARTICLE 6. DEVELOPMENT REGULATION. (OVERVIEW OF PROCEDURES)

Section 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.

Section 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.

Section 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.

Section 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.

Section 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 Rezonings. 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.

Section 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.

Section 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 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 schematic 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. (O-2025-06)

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. Additional community meetings shall be required if a

Major Change is made to the proposed site plan by the applicant as a result of the first community meeting. A Major Change is defined as items 11.b.ii. (1)-(6) as provided in this Section.

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 report must be considered by the Planning Board but is not subject to judicial review. The Town Zoning Administrator shall have the authority to determine if a community meeting was insufficient towards meeting these requirements prior to placing the item on the Planning Board agenda for review and recommendation. If deemed insufficient, the applicant shall be notified in writing of these findings and a second community meeting shall be required at the expense of the applicant, including notification of adjacent property owners within 1,300 linear feet and the scheduling of a new meeting date and time with adequate notice.

6. *Council Presentation and Public Comment.* This is the second opportunity for public input and will be during a regularly scheduled Town Council Meeting. Once the petition is complete, a community meeting has been held, the CZ request has been submitted and the public has an opportunity to provide comment at a Town Council meeting and completion and approval of a Traffic Impact Analysis, the CZ application process follows the review process in Section D-803(A)1(a).

7. *Staff Review and Report***.** Staff shall review the site plan and all relevant information and prepare a report. The Zoning administrator shall present any properly completed application to the Planning Board at its next regularly scheduled meeting occurring at least 15 business days after the application has been deemed complete and ready for submission to the Planning Board.

8. *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.

9. *Public Hearing Before Council (after notice as provided above; including citizen comment as noted above).*

10. *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.

11. *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 l in accordance with the procedures set forth herein.

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

A. Variance. See Section D-705.

B. Appeal of Decision of Administrator. See SectionD-705.

Section 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.

Section 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.

Section 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.

Section D-703. Zoning Districts and Permitted Uses.

A. **Conventional Zoning Districts**. The Town's existing conventional zoning districts, as defined in Appendix 1, are as follows:

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

B. Conditional Zoning Districts.

1. The Town's existing Conditional Zoning (CZ) districts, as defined in Appendix 1, are 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 Table 1, Permitted 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.

C. 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*.
   a. 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.
   b. Access to parcels within the overlay district from Weddington-Matthews Road shall be limited to one shared access point
   c. 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***.**

a. Any proposed development site plan must create roadway stubs to connect with any or all adjacent parcels also located within the downtown overlay district.

b. 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.

c. Any proposed development site plan must include clearly identifiable crosswalks to allow pedestrians to safely cross parking lots and interior streets.

d. 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.

e. 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***.**

a. 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.

b. 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.*

a. 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.

b. All roof equipment must be screened from public view and shall not be visible from the street.

c. 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.

d. 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.

e. 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.

f. 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.

D. 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 supplemental requirements that are applicable to a certain "by-right" uses of land as set forth in Section D-917D.

2. *Conditional Zoning*. Others primary uses of land are permitted through the CZ zoning process. This UDO also identifies, in some cases, supplemental requirements 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 nonconforming use as set forth in Article 1, then such use is expressly prohibited, and the establishment of such use shall constitute a violation of this UDO.

4. Permitted uses (BR and CZ) are identified in Table 1, Permitted Uses. Standard yard requirements (lot sizes and setbacks) are identified in Table 2, Lot and Building Standards.

Table 1, Permitted Uses

Use	R-80	R-60	R-40	R-40(D)	R-CD	RE	ED	Supplemental Regulations
Single Family Dwellings	BR	BR	BR	BR	BR	BR		
Mobile Homes, Classes A and B	BR	BR	BR					
Agricultural Uses	BR	BR	BR		BR			D-917D(A)
Agritourism	CZ	CZ	CZ		CZ			
Horse Farm or Academy	BR	BR	BR		BR			D-917D(B)
Family Care Home for up to 6 Clients	BR	BR	BR	BR	BR			D-917D(C)
Daycare Center (Small Group)	BR	BR	BR		BR			
Two Family Dwellings				BR				
Customary Home Occupations	BR	BR	BR	BR	BR	BR		D-917D(F)
Traditional Residential Development <= 6 Lots	BR	BR	BR		BR	BR		D-917A
Traditional Residential Development > 6 Lots	CZ	CZ	CZ		CZ	CZ		D-917A

Table 1, Permitted Uses								
Use	R-80	R-60	R-40	R-40(D)	R-CD	RE	ED	Supplemental Regulations
Conservation Residential Development					CZ			D-917A and D-917B
Country Clubs	CZ	CZ	CZ		CZ			
Churches, Synagogues and Other Places of Worship	CZ	CZ	CZ		CZ			REF
Golf Courses, Parks, Playgrounds, and Community Recreation Centers	CZ	CZ	CZ		CZ			D-917D(J)
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	BR		
Essential Services, Classes II and III	CZ	CZ	CZ		CZ			D-917D(I)
Private Airstrips	CZ	CZ	CZ		CZ			D-917D(D)
Telecommunication Towers	CZ	CZ	CZ	CZ	CZ			D-930
Public Libraries	CZ	CZ	CZ		CZ			
Amateur Radio Towers	CZ	CZ	CZ		CZ			D-917D(E)
Government or Town Facility	CZ	CZ	CZ		CZ			
Post Offices								
Small Cell Telecommunication Facility								D-931
School, Public or Private (including Preschool Facilities)		CZ	CZ				CZ	D-917D(K)
Existing B-1 (CZ), B-2 (CZ), and MX (CZ) Districts are site specific development approvals, and shall follow the uses allowed in those approvals								

E. Lot and Building Standards Table. Table 2, Lot and Building Standards, establishes the lot and building standards for 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 Section D-917D, the use-specific requirement shall control.

TABLE 2, LOT AND BUILDING STANDARDS							
Zoning District	Minimum Lot Size (sq. ft.)	Minimum Lot Width (ft.)	Minimum Setbacks (ft.)			Maximum Height (ft.)	Maximum Floor Area Ratio
			Front	Side	Rear		
R-80	80,000	150	65 (res.) 75 (other)	25 45 (corner)	60	35	N/A
R-60	60,000	125	60 (res.) 75 (other)	25 45 (corner)	60	35	
R-40	40,000	120	50 (res.) 75 (other)	15 25 (corner)	40	35	
R-40(D)	40,000	100	40	12	40	35	
R-CD (Conventional)	40,000	120	50	15	40	35	
R-CD (Conservation)	18,000*	100	40	12**	40	35	
RE	20,000	100	40	12	40	35	
ED	N/A	N/A	25	25	25	40	0.2
B-1 (CZ)							
B-2 (CZ)							
MX (CZ)							

* *Lot size shall average at least 20,000 sq. ft. for each Major subdivision approved by Town Council*

** *A separation of 30 feet shall be maintained between the sides of each dwelling*

(Ord. No. 2022-02, 2022 10-10, 2024-04)

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

Section 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.

Section 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.

Section 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.

Section 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.

Section 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(E), 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). The Conditional Zoning Site Plan serves as the Schematic Plan. 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.(O-2025-06)

   b. 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.

   c. 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(E), 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.

Section 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.

Section 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.

Section 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.

Section 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.

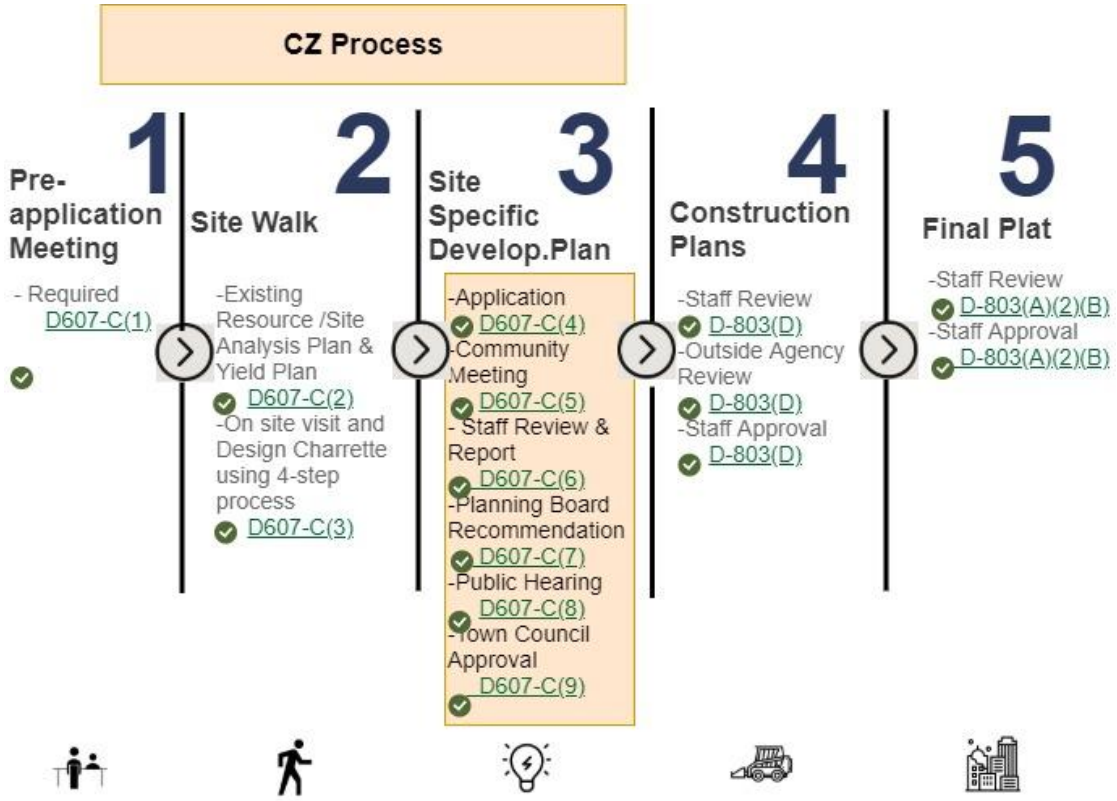
Section D-808. Appeals of Decisions on Subdivision Plats. Appeals of subdivision decisions may be made pursuant to G.S. 160D-1403.

Section 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.

Section 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.

Section D-902. – Section D-916. [reserved]

Section 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 on all private and public dedicated roads shall meet or exceed the minimum design criteria for subdivision roads as established by the most recently adopted division of highways, state department of transportation publication entitled "Subdivision Roads: Minimum Construction Standards".

J. Cul-de-sacs.

1. Cul-de-sacs or dead-end streets designed to be permanently closed are prohibited and can only be used when topographic conditions and/or exterior lot line configuration offer no practical alternative for connection or through traffic. Cul-de-sacs shall not exceed 500 feet. 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. A sign will be required at the end of the cul-de-sac or dead-end street stating there will be a connection when the adjacent parcel 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. No system of multiple branching cul-de-sacs from a single junction within a connected street network is permitted.
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 that are private streets shall 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 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.

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.

   c. 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 twenty 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 P is not applicable to conservation residential developments which have a significantly higher open space requirement (Section D-917B, below)].

Q. Tree Requirements.

1. *Tree Survey requirements.* To establish standards for the identification, documentation, and preservation of significant trees and vegetation during the development process, ensuring ecological integrity, community aesthetics, and compliance with the UDO. The tree survey must be prepared and certified by a qualified arborist, landscape architect, or land surveyor and approved by the Town. The survey must include the following elements:

   a. General Information:
      i. Project name, address, and parcel number(s)
      ii. Date of survey and preparer's name and credentials
      iii. Scale and north arrow of the plan

   b. Tree Inventory: Location of all existing trees with a diameter at breast height (DBH) of 6-inches or greater, Dogwoods with 5 DBH or greater, measured at 4.5 feet above the ground.
      i. Species: common names of each tree.
      ii. DBH measurements: Diameter of each tree.
      iii. 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.

   c. Site Features:
      i. Property boundaries and lot lines.
      ii. Existing and proposed structures, utilities, and infrastructure.
      iii. Protected areas (e.g. wetlands, streams, buffers)

d. Tree Preservation Plan:
- **i.** Identification of trees to be preserved, transplanted, or removed.
- **ii.** Proposed measures for tree protection during construction, including fencing, signage, and limits of disturbance.
- **iii.** Replanting plan for removed trees, if applicable, meeting replacement ratios of the town's UDO.

2. *Tree Save and Tree Replenish Requirements*. To maintain or replenish the Town tree canopy in any new major residential development the following shall apply:

a. The removal of trees greater than or equal to 8-inches DBH is not permitted within areas that have naturally occurring trees located outside the buildable envelope of a lot or development. For this provision buildable envelope is the area of a parcel that remains after subtracting all restricted or unbuildable portions, including but not limited to:
- **i.** Required zoning district setbacks;
- **ii.** Existing and proposed street rights-of-way and easements;
- **iii.** Utility and drainage easements.
- **iv.** Existing, ponds, lakes, streams and their buffers.
- **v.** Septic drain fields.

b. Tree Canopy shall be preserved in order to stabilize soil, control water pollution by preventing soil erosion and reducing flooding, reduce air pollution, mitigate the urban heat island effect, reduce noise pollution, provide natural habitat for wildlife, and contribute to the unique aesthetic value of the town. The amount of tree canopy on a proposed development's site shall be calculated prior to commencement of land disturbing activities. Tree preservation shall be provided according to the following standards:
- **i.** Development sites that are calculated to have less than 20% tree canopy in the buildable area prior to development shall preserve a minimum of 10% of the buildable area as a contiguous tree save.
- **ii.** Development sites that are calculated to have more than 20% but less than 40% tree canopy in the buildable area prior to development shall preserve a minimum of 20% of the buildable area as a contiguous tree save.
- **iii.** Development sites that are calculated to have more than 40% tree canopy in the buildable area prior to development shall preserve a minimum of 30% of the buildable area as a contiguous tree save.
- **iv.** The baseline canopy measurement on a proposed development site shall be provided by the property owner or applicant and submitted as part of a landscape plan. The percent canopy cover may be calculated using aerial photographs and verified, if necessary, by ground measurement. The method of canopy calculation must be approved by the Union County Urban Forester.
- **v.** If the tree save requirement does not meet the required percentage of the total site area, additional native noninvasive deciduous trees must be planted. Trees planted shall be a minimum of 2-inches in caliper and shall have a spread of 25' at maturity.
- **vi.** If root disturbance or construction activities occur within the Critical Root Zone (CRZ) of any tree designated as protected, only that area that is not affected by construction shall be included in the calculated tree preservation areas.
- **vii.** Tree preservation areas shall be no less than 2,500 square feet in area, no less than 10 feet in width, and contain not less than one tree 8-inches Diameter at Breast Height (DBH) or larger. Where existing trees are insufficient to meet these standards, new deciduous trees shall be planted in order to meet this minimum requirement.
- **viii.** Portions of development sites that are designated as tree preservation areas shall be protected during construction and shall remain undisturbed. The property owner or applicant shall be responsible for the erection of any and all tree fence necessary to protect any existing or installed trees from damage both during and after construction. These tree protection zones shall be clearly labeled on development plans and subject to inspection by town officials.
- **ix.** Where removal of existing trees is approved within tree preservation areas, new trees shall be installed in the general vicinity of the trees removed. The replacement trees shall be approved by the administrator and shall cover the same or greater canopy at the time of maturity.
  1. A payment in lieu of tree replacement may be allowed, subject to approval of the Zoning Administrator in cases where site area is insufficient or otherwise impractical to replant trees on the site.

2. The payment shall be based on the total replacement costs of the trees. The applicant is responsible for providing price quotes and such quotes shall be certified by a North Carolina registered forester, registered Landscape Architect, or an ISA certified arborist.

c. 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.

d. 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 8-inches DBH or larger diameter, may be counted towards fulfilling this requirement if they are properly preserved during construction by installing tree fence around the CRZ. 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.

e. Areas not falling under the on-lot or perimeter landscaping requirements including detention areas and open space areas shall be landscaped with ten (10) shade trees, ten (10) understory trees, and thirty-five (35) shrubs per acre.

3. *Heritage Trees*

a. Heritage trees are defined as in Appendix 1. Definitions

b. All buildings, building additions, and other structures (including but not limited to driveways) shall be located upon a lot or parcel of land in such a way as to minimize damage to or removal of Heritage trees.

c. No impacts to the CRZ of a Heritage tree or removal of a Heritage tree shall be approved unless the Administrator finds that all reasonable efforts have been undertaken in the architectural layout and design of the proposed development in accordance with the following:

i. Building placement, driveway, walkway, and parking areas shall be designed in such a way as to avoid unnecessary removal of or damage to Heritage trees.
ii. Drainage and grading shall be developed in such a way as to avoid removal of or damage to Heritage trees, and to protect remaining Heritage trees from risk of damage through change in grade or moisture, or from root loss as a result of grading and earth moving.
iii. Landscape plans shall reflect Heritage trees being retained.
iv. The CRZ of Heritage trees on lots adjacent to the lot in question on which construction activity will take place shall be carefully considered and must be given the same considerations as Heritage trees on the lot in question.

4. *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 land clearing, vegetation removal, or earth moving takes place on the subject site, a tree fence must be erected around the CRZ of all trees being retained sufficient to put on notice all construction personnel that any disturbance of the area within the CRZ of such trees is prohibited, except as expressly approved by the administrator. Required tree fence must be shown on construction plans including the demolition, grading, and wet utilities (water & sewer) plans.

c. If tree fence must protect less than the entirety of the CRZ, this must be shown on approved plans and approved by the Administrator.

d. All required tree fence must be in place around the CRZ and approved by the Administrator prior to beginning construction. The tree fence must remain in place during the entire construction period to prevent

impingement of construction vehicles, materials, spoils, and equipment into or upon the CRZ. All fencing must be secured to capped metal posts driven into the ground, spaced no further than eight feet (8') apart.

e. No soil disturbance, filling, compacting, or material storage shall occur within tree protection areas. Operating heavy equipment within the CRZ is prohibited. Landscaping within the CRZ of retained trees must be shown on approved plans and must not utilize heavy equipment or must mitigate for the impacts of heavy equipment.

5. *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 260.1) as published by the American Association of Nurserymen.

b. Failure to maintain landscaping is a violation of this ordinance.

6. *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 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, Union County Urban Forester's species 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. The Administrator has ultimate authority over species selection, even if that species is not listed on the species list.

f. The Administrator may require broad diversity of tree and shrub species be selected and planted consistent with urban forestry best practices.

g. The Administrator may wave material size (caliper and height) requirements, especially in the interest of securing a more desirable species selection choice.

h. 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 plant materials shall be planted in a manner which is not intrusive to utilities or pavement. The Administrator will maintain tree and shrub planting standards and specifications all plant material shall comply with these standard specifications.

7. *Time for Installation.* All perimeter and open space landscaping for single-family 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 twenty-five (125) percent of the estimated total cost for landscaping improvements.

8. *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 Union County Urban Forester. 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.

9. *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 with a tree protection plan. No building permit or similar authorization may be issued until the administrator determines that the landscaping and screening regulations, and tree save regulations of this article have been met. These measures shall include, but not be limited to, the following:

a. An inventory of trees is required for all trees 6 inches DBH or greater outside the buildable area and all Heritage trees across the entire lot or parcel.

b. Tree Protection Plan: Tree fence shall be indicated on the Tree Protection Plan, grading plan, demolition plans, erosion control plan, and water and sewer utility plans around the CRZ of trees to be maintained. The Tree Protection Plan shows the tree inventory and survey relative to the location future building footprints, overhead and underground utilities, grading changes, and other infrastructure or anything that will require excavation or soil disturbance, or new impervious cover that will be constructed in relation to the location of existing trees to be retained, CRZs of Heritage trees and other retained trees and prescribed tree fence. Show the boundaries of all tree save areas.

c. A landscape plan is required. Show all landscape plantings (entryway, parks, signage areas, etc.) along with a detailed *"Planting Schedule"*. Show a legend of symbols representing each species to be planted (street trees, landscaping trees, shrubs, and plants).

10. *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 notice of violation. A notice of violation may be hand delivered to a responsible representative of the violator and that representative must sign that they have received such citation, delivered by U.S. first class mail, email, or by conspicuously posting a print copy of the violation on the subject property.

11. *Penalties.*

a. 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.

b. Failure to install and maintain tree protective devices shall be a civil penalty of five hundred dollars ($500.00) per tree per day beginning with the date the citation is issued and ending when the site is in compliance.

c. Failure to install required landscape material or to replace dead landscape material shall be a civil penalty of five hundred dollars ($500.00) per day beginning with the date the citation is issued and ending when the site is in compliance.

d. Removal of a tree 8-inches DBH or greater without permission from the administrator will result in a civil penalty of one thousand dollars ($1,000.00) per tree.

e. Removal of a Heritage tree without permission from the Administrator shall be a civil penalty of eight hundred dollars ($800.00) per inch for each tree.

f. The maximum civil penalty for each tree shall not exceed fifty thousand dollars ($50,000).

12. In accordance with N.C.G.S. 160D-921, the town administrator may deny a building permit or refuse to approve a site or subdivision plan for either a period of up to:
    a. Three years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under local government regulations governing development from the tract of land for which the permit or approval is sought.

    b. Five years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under local government regulations governing development from the tract of land for which the permit or approval is sought and the harvest was a willful violation of the local government regulations.

(O-2025-01)

Section 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 adjusted tract acreage yield of the tract will be required to be retained as Secondary Conservation Land.
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 of Secondary 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. 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. Primary Conservation Lands.

1. Stream valleys, swales submerged land, floodplains, steep slopes greater than twenty five percent (25%) and other lowland areas warrant designation as Primary Conservation Lands. They may also require adjoining buffer lands to be included as Conservation Lands 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, waterbeech, 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 secondary 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 Planning Board when reviewing the schematic plan 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-feet 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.

Section 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 100-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:

1. The routing of stormwater for the predevelopment and post-development conditions of the proposed building lot.

2. 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.

3. Calculations, plans, and specifications for stormwater retention/detention facilities or other means to effect peak rate attenuation.

4. 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 100-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.

Section D-917D. Supplemental Requirements for Certain Uses.

A. Agricultural Uses.

1. 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.

2. Agricultural uses shall have a minimum lot size of 80,000 (R-80), 60,000 (R-60), or 40,000 (R-40, R-CD) square feet; provided, however, that a minimum of five acres shall be required for any agricultural use containing one or more livestock animals having a mature adult weight of 250 pounds or greater. Notwithstanding this requirement, lots whose agricultural use consists exclusively of one horse shall be required to have a minimum of 40,000 square feet of contiguous fenced land area designed to accommodate the horse. Such lots containing two horses shall be required to have a minimum of 80,000 square feet of contiguous fenced land area designed to accommodate the two horses.

(Ord. No. 2023-04, 2023-06-12)

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:
      1. 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.
      2. 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.
      3. Exterior of buildings will be articulated to enhance the area of the site.
   b. Mobile classrooms (MCR):
      1. 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.
      2. MCR underpinning and crawl spaces shall be screened.
      3. Landscaping/planting shall be provided between the MCR and any adjacent roads from which the MCR's are visible.
   c. Sidewalks:

1. 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.
2. UCPS will dedicate appropriate easement or road right-of-way needed for sidewalks if requested by municipality.
3. UCPS will grade areas for sidewalks if requested by municipality.
4. UCPS will cooperate with municipality to apply for grants for sidewalks.

d. Exterior illumination:

1. 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.
2. Lighting fixtures located on the building exterior shall not emit more than five foot-candles and shall be shielding type.
3. 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:

1. Materials for sign base and structure shall match the primary building materials.
2. 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.
3. 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.
4. One wall sign per school shall be permitted and only for the name of the school and shall be reviewed by the administrator.
5. External illumination is allowed.

f. Parking:

1. 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.
2. At high schools provide five spaces per instructional classroom or one space for each three seats used for assembly purposes whichever is greater.
3. No more than 20 percent of the required spaces can be compact spaces.
4. 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:

1. Trees and shrubs shall be as indicated within the municipality species list.
2. 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.
3. Parking areas shall be screened from adjacent public roads with shrubs based on the municipality's species list.

4. 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.

5. Land berms will not be permitted between school facilities and roads.

6. Land berms can be used in conjunction with required screening/buffering to adjacent uses as determined by the local regulations.

7. Screening/buffering from adjacent uses will be opaque and shall consist of:

   i. 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

   ii. Large trees planted at a rate of 2.5 per 100 feet and a six-foot high solid wood fence; or

   iii. Tall evergreen trees with branches touching the ground planted in a stagger.

8. If the adjoining property is of similar or compatible use the administrator may reduce or eliminate the screening/buffer.

9. 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 100-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:

      1. The routing of stormwater for the predevelopment and post-development conditions of the proposed building lot.

      2. 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.

      3. Calculations, plans, and specifications for stormwater retention/detention facilities or other means to effect peak rate attenuation.

      4. 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 100-year storm.

      5. 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. The purpose of this subsection is to establish standards for accessory uses and structures so that they contribute to the comfort and convenience of the principal use/structure, while not detracting from the character of the neighborhood. Accessory use and structures shall be customarily found in conjunction with the subject principal use; shall constitute only an incidental or insubstantial part of the total activity that takes place on the subject lot; and are integrally related to the principal use.

1. *General Standards.*

a. *Establishment.* Accessory structures must be constructed in conjunction with or after the principal structure. Accessory structures may not be built prior to the construction of the principal structure.

b. *Location and Setbacks.*

1. Accessory uses and structures shall be located on the same lot as the principal use.

2. Accessory uses and structures, including swimming pools, shall be located at least 15 feet from any side or rear lot line. Pool decks, driveways, and similar "at grade" structures may be located within this setback area but shall be located at least 5 feet from any side or rear lot line.

3. Accessory structures such as hot tubs, whirlpools, jacuzzies, and the like, shall be required to be within the setbacks for a principal structure.

4. Accessory uses and structures shall not be located closer to any adjacent right-of-way or street than is the principal use/structure.

5. Well houses shall be allowed within any setback area, provided they are not located within 15 feet of a right-of-way or street, or within 5 feet of any side or rear lot line.

c. *Height.*

1. Accessory structures greater than 12 feet in height shall be set back from side and rear lot lines an additional one-foot for every one-foot of height, or fraction thereof, exceeding 12 feet up to the required principal structure setback.

2. In no instance shall an accessory structure exceed the height of the principal structure.

3. Barns and other bona fide farm-related structures shall not be limited in their height by these accessory use and structure provisions and shall instead only be limited by the otherwise established maximum building height for their respective zoning district

d. Other than barns and other bona fide farm-related structures, accessory structures shall not cumulatively exceed 50 percent of the gross floor area of the principal structure.

e. Accessory structures must be separated by a minimum distance of 5 feet from all other accessory and principal structures.

f. Roofed accessory structures that are physically attached or otherwise connected to the principal structure shall be considered a part of the principal structure and shall be subject to those same setback and height requirements as the principal structure.

2. *Specific Standards.*

   a. *Accessory Family Dwellings.* Accessory family dwellings shall be subject to the following:

      1. Accessory family dwellings shall be allowed only on lots that meet the minimum lot area requirement of the applicable zoning district.

      2. No more than one accessory family dwelling shall be permitted on a single deeded lot in conjunction with the principal dwelling.

      3. The heated floor area of the accessory family dwelling shall not exceed 30 percent of the gross floor area of the principal dwelling.

      4. The accessory family dwelling shall meet all setback requirements applicable to principal structures in the zoning district.

      5. At least one additional off-street parking space shall be provided for the use of those occupying the accessory family dwelling.

      6. The exterior appearance of the accessory family dwelling unit shall be compatible to the principal dwelling.

   b. *Solar Panels.*

      1. Despite being physically attached to either a principal or accessory structure, solar panels shall be considered an accessory structure and shall be permitted as such.

      2. The installation of roof mounted solar panels shall not cause an otherwise conforming building to become nonconforming with regard to height requirements.

(Ord. No. 2023-02, 2023 03-13)

Section D-917E. Additional Specific Requirements for Conventional Residential Subdivisions.

A. Minimum Total Acreage. The minimum total acreage for a Conventional Residential Development considered a Major Subdivision, is six (6) acres. Minor subdivisions are exempt from this section.

B. Minimum Open Space.

1. At a minimum, twenty percent (20%) of the gross acreage of the tract will be required to be retained as Common Open Space (COS). Primary Open Space (POS) may count toward achieving the 20% Common Open Space requirement of this UDO.

2. The minimum percentage and acreage of required open space shall be calculated by the applicant and submitted as part of the schematic plan.

C. 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. No portion of the Thoroughfare Buffer as found in Section D-917S. shall be located on private property; it must be entirely located within common open space and maintained by the homeowners association.

D. Setback Requirements

1. Notwithstanding the provisions of this subsection, all principal dwelling units within a conventional 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 subdivision.

3. Garages with front=facing loading bays shall be recessed a minimum of two feet from the front façade of the house and visually designed to form a secondary building volume.

E. Lot Lines and Related Requirements.

1. Lots shall not encroach upon the designated common open space (COS) when a stream or riparian buffer is identified. Accordingly, no structure except for fencing, play equipment, and/or entrance monuments shall be located within designated open space.

(Ord. No. 2025-05)

Section 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 selected from the Union County Urban Forestry species list.

1. Shrubs may be deciduous;

2. 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

3. 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.

i. Shrubs and trees shall be on the approved plant list in Appendix 3 Approved Plant List.

ii. 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

iii. 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. 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 asterix (*) 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:

1. 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.

2. 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,

3. No sign shall be closer than three feet from the edge of the pavement of the road.

4. No sign shall obscure motorist visibility at an intersection.

5. No sign shall be higher than 42 inches above the edge of the pavement of the road.

6. No sign shall be larger than 864 square inches.

7. 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.
(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 parks and recreational facilities and all similar places of public assembly	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.
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 non-asphalt 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.

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.

Section 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.

E. 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.

(Ord. No. 2023-02, 2023 03-13)

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

Section D-921. Forestry Activities. [reserved]

Section D-922. Erosion and Sedimentation Control. See Appendix 6.

Section D-923. Floodplain Regulations. See Appendix 7.

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

Section D-925. Stormwater Control. See Appendix 8.

Section 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.

Section 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.

Section D-940. Historic Preservation. See Appendix 9.

Section 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.

APPENDIX 1 DEFINITIONS

Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment means:

(1) A use that has been discontinued for a consecutive period of 180 days;
(2) When the premises of a particular use are devoted to another use;
(3) When the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by the same or similar equipment within 30 days; or
(4) Failure to take all positive action to resume the nonconforming use with reasonable dispatch, including the failure to advertise the property for sale or lease.

Accessory family dwelling means an incidental structure on the same lot as the single-family dwelling that is the principal use on that lot and that is generally occupied and used by different person(s) than those who generally occupy and use the property's single-family dwelling.

Accessory structure means a structure located on the same parcel of land as the principal structure and the use of which is customarily incidental to the use of the principal structure.

Accessory use means a use that exists on the same lot with the principal use and is subordinate and clearly incidental to the principal use.

Adaptive reuse refers to the process of reusing a site or building for a purpose other than that for which it was originally intended.

Adjusted Tract Acreage Yield means the total gross tract acreage after excluding the primary conservation areas.

Administrator means the person designated by the town council to administer this UDO and to undertake other duties as called for in this UDO.

Adult establishment means a use meeting the definition of "adult establishment" in G.S. 14-202.10(2), which is hereby adopted by reference. The term "adult establishment" includes adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult live entertainment businesses, and massage businesses, as those uses are defined in G.S. 14-202.10, which is hereby adopted by reference. However, this term does not include massage businesses where all applicable employees meet the ethical and educational requirements specified by the American Massage Therapy Association or equivalent national or state standards.

Agricultural uses means the production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including, but not limited to, forages and sod crops, dairy animals and dairy products, poultry and poultry products, livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals, bees and apiary products, fur animals, trees and forest products, fruits of all kinds, including grapes, nuts and berries, vegetables, nursery, floral and ornamental products, or lands devoted to a soil conservation or forestry management program. The term "agricultural use" does not include a horse farm or academy, as herein defined, or the keeping of any nondomesticated animals. As used herein, the term "nondomesticated animals" shall mean any animal not generally associated with the practice of animal husbandry and which are a threat to humans or are commonly perceived to be a threat to humans. Examples of such animals include great cats, wolves and bears.

Agritourism means an agricultural, horticultural or agribusiness operation primarily devoted to the promotion of tourism of said operation for the purpose of enjoyment, education or active involvement in the activities of the farm or operation; provided that said use produces revenues or attracts tourists.

Airport means an area of land or water that is designed or used on a recurring basis for the landing and takeoff of aircraft, ultra-lights, other mechanical aircraft, or other flying apparatuses, whether or not so designated by the Federal Aviation Authority (FAA), excluding hot air balloons.

Alteration means a change in the size, configuration, or location of a structure, or a change in the use of a structure or lot from a previously approved or legally existing size, configuration, location or use.

Amateur radio tower means a freestanding or building-mounted structure, including any base, tower, pole, antenna and appurtenances, intended for amateur radio (HAM) airway communication purposes.

Athletic fields means designated areas in which sports and other outdoor recreational play activities occur. The term "athletic fields" includes ballparks, soccer fields, and any other outdoor recreational nonwater, nonclay or asphalt court related activities.

Barn means a building that is accessory to a residential or agricultural use and that is used exclusively for storage of grain, hay and other farm products and/or the sheltering of livestock or farm equipment.

Billboard means a permanently constructed sign structure composed of one or more large surfaces for permanent or changeable messages, supported by one or more vertical posts and generally used for off-premises advertising.

Biosolids means the nonhazardous waste or residuals generated and treated at a wastewater treatment facility or water treatment facility. The term is synonymous with the terms "septage" and "sludge", as defined by G.S. 130A-290. The term "biosolids" includes solid, semisolid or liquid residue generated during the treatment of domestic sewage in a treatment works and any material derived from such sewage sludge. These materials must be managed in accordance with permits issued by the state department of environment and natural resources.

Block means a piece of land bounded by streets or roads.

Building means a structure, temporary or permanent, having a roof or other covering supported by columns or walls designed or used for the shelter, housing, or enclosure of persons, animals or property. The term "building" includes the word "structure".

Building, accessory means a building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building and located on the same lot therewith.

Building footprint means the total amount of area on the ground covered by the building structure; in lieu of exact measurements for the principal structure, the total square footage divided by the number of floors may be used for the building footprint.

Building height means the vertical distance from the mean elevation of the finished grade along the front of the building to the highest point of a flat roof, or to the eaves.

Building, principal means a building in which is conducted the principal use of the lot on which said building is situated.

Building setback line means a line establishing the minimum allowable distance between the nearest portion of any building, including porches, and the nearest edge of the street right-of-way when measured perpendicularly thereto.

Bulletin board means a sign used to announce meetings or programs of a church, school, auditorium, library, museum, community recreational center or similar noncommercial place of public assembly. Bulletin board signs may be permanent signs which hold temporary banners or text that changes on a regular basis.

Cemetery means property used for the dead, which use may include the commercial sale and location of burial lots, crypts or vaults for use exclusively on the subject property. A cemetery shall not be used for the preparation or embalming of bodies; or the cremation of bodies. Setbacks for cemeteries shall be measured from the nearest structure or grave sites.

Church/house of worship means a building or structure, or group of buildings or structures which, by design and construction are primarily intended for conducting organized religious services, whose site may include an accessory area for the internment of the dead.

Club means buildings or facilities owned or operated by a person for a social, educational or recreational purpose.

Co-location means the placement of additional antennas or antenna arrays on an existing or approved telecommunication or electrical transmission tower, the sharing of an antenna or antenna array, or otherwise sharing a common location by two or more Federal Communications Commission (FCC) licensed providers of personal wireless service. Co-location includes antennas, transmitters, receivers and related electronic equipment, cabling, wiring, equipment enclosures and other support equipment or improvements located on the tower site.

Community recreational center means a building used for recreational, social, educational and cultural activities, owned and operated by a governmental or nonprofit group or agency, except for this use when operated by homeowners' associations within subdivisions. Nonprofit means that the community recreational center is owned and operated by a federally recognized non-profit organization organized and operated exclusively for exempt purpose set forth in 26 USC 501(c)3.

Conservation easement means a right conveyed by deed or other appropriate recorded instrument which gives the grantee a nonpossessory interest in the real property of the grantor, and which perpetually and permanently restricts the use of the real property to the uses set forth in section D-917B.J.1.

Conservation land means that portion of a tract that is set aside for permanent and perpetual protection as required by this UDO.

(1) Primary conservation land means that portion of a tract that consists of viewsheds, floodplains, wetlands, lakes, ponds, hydric soils, and steep slopes greater than twenty-five percent (25%).
(2) Secondary conservation land shall include that portion of a tract that consists of forestland, farmland, historic sites, moderate slopes less than twenty five percent (25%), rock formations, and land adjacent to parks.

Conservation organization means a nonprofit corporation or trust, or any private corporation or business entity authorized to do business in the state, intended to exist indefinitely, and whose ongoing purpose includes the following:

(1) The permanent and perpetual preservation of land areas for outdoor recreation by, or for the education of, the general public;
(2) The permanent and perpetual protection of the natural habitat of fish, wildlife, or plants, or similar ecosystem; or
(3) The permanent and perpetual preservation of open space (including farmland and forestland) where such preservation is for the scenic enjoyment of the general public, or pursuant to a clearly delineated federal, state or local governmental conservation policy, and that will yield a significant public benefit.

Construction trailer means a mobile home which is designed for neither overnight, nor year-round occupancy and is used exclusively at a construction project on a temporary basis.

Corral means the primary enclosure for confining livestock. A corral is not a structure as defined by this chapter.

Critical Root Zone (CRZ) means an area originating from the truck of the tree with a radius of 1 foot for every 1-inch diameter at breast height (DBH) measured on that same tree. For example, if a tree has a DBH of 12 inches, its CRZ will have a radius of 12 feet.

Cul-de-sac means a short street having only one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.

Country club means a land area and buildings containing recreational facilities, clubhouses and usual accessory uses, open only to members and their guests for a membership fee.

Day care center means a place where daytime care is provided to six or more children, unrelated by blood or marriage to, and not the legal wards or foster children of the attendant adult.

Day care center, small group means a place where daytime care is provided to not more than five children unrelated by blood or marriage, and not the legal wards or foster children of the attendant adult within an occupied residence.

Dedication means a grant by the owner of a right to use land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance, both in a form acceptable for recording.

Deeds office means office of the county register of deeds or of the Mecklenburg County register of deeds.

DENR means state department of environment and natural resources.

Developable lot means, for the purposes of developing a yield plan for a conservation residential development, an undeveloped lot that could be developed into a residential lot within a traditional residential development in accordance with this UDO without any variances.

Development means the construction of any new building, or other structures, or impervious surface on a lot; the relocation of any existing building on a lot; or the use of a lot or tract of land for any new uses.

Development, conservation residential means a residential subdivision, six acres or greater, that is developed pursuant to section D-917B.

Development, traditional residential means a residential subdivision that is not a conservation residential development subdivision.

Diameter at Breast Height (DBH) means measurement in inches of a tree trunk at 4.5 feet above the ground. For multi-stemmed trees which fork below 4.5 feet above the ground, the DBH is determined by measuring all the trunks, and then adding the total diameter of the largest truck to one-half the diameter of each additional trunk.

District, Education (ED) means a conventional zoning district intended as a standard zoning classification with standardized requirements for school construction regardless of the school's locale in Union County. This standardization is intended to result in the provision of: (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.

District, General Business (B-1) means a conditional zoning district intended to accommodate neighborhood businesses engaged in the retailing of merchandise such as groceries, drugs and household items for furnishing certain personal, business, and professional services for the convenience of residents of the town without undue conflict with, detriment to, or destruction from nearby land uses or zoning districts. A rezoning to the B-1 (CZ) District shall only occur in those areas specifically designated as Business on the adopted Future Land Use Map.

District, Local Shopping Center (B-2) means a conditional zoning district intended to provide for the controlled development of more intense retail and service uses with adequate off-street parking and other amenities designed to serve the immediate town area. A rezoning to the B-2 (CZ) District shall only occur in those areas specifically designated as Business on the adopted Future Land Use Map.

District, Mixed-Use (MX) means a conditional zoning district intended as a limited use district with a very high level of design control including both site and building features. It is designed to allow a variety of office, commercial and limited residential uses only in carefully considered locations requiring a high level of design control by the town. A rezoning to the MX (CZ) District shall only occur in those areas specifically designated as Business on the adopted Future Land Use Map.

District, R-40 Single-Family (R-40) means a conventional zoning district intended to provide for residential development at low densities consistent with suitability of the land and the rural character of the town.

District, R-40(D) Two-Family (R-40D) means a conventional zoning district intended to allow single-family and duplex units on lots with a minimum lot size of 40,000 square feet. This district is created to regulate one specific area of the Town.

District, R-60 Single-Family (R-60) means a conventional zoning district intended to provide for areas of very-low density residential development which are compatible with the concept within the Towns adopted Land Use Plan of retaining the rural character of the community.

District, R-80 Single-Family (R-80) means a conventional zoning district intended to provide for areas of very-low density residential development which are compatible with the concept within the Towns adopted Land Use Plan of retaining the rural character of the community.

District, Residential-Conservation (R-CD) means a conventional zoning district intended to allow uses that are similar in nature to other residential districts in the town. The R-CD District provides a means of protecting conservation lands, especially those areas that contain primary and secondary conservation lands.

District, Residential Established (RE) means a conventional zoning district intended for subdivisions with 20,000 square foot lots that have been annexed by the Town and do not conform to any other Town zoning districts.

Dwelling, single-family means a detached building designed for or occupied exclusively by one family, but not to include mobile homes, as defined by this chapter.

Dwelling, two-family means a building arranged or designed to be occupied by two families living independently of each other.

Easement means the right to use a specified portion of a tract or tracts of land for a specified purpose. All easements must be in a form suitable for recording as part of a plat.

Electrical transmission towers shall mean any tower, whether public or private, designed and used to support overhead electrical transmission lines.

Elementary and secondary schools means privately owned or publicly owned preschools, elementary schools, middle schools, junior high schools or high schools.

Essential services means publicly or privately owned facilities or systems for the distribution of gas, electricity, steam or water, the collection and disposal of sewage or refuse, the transmission of communications, or similar functions necessary for the provision of public services. The term "essential services" is divided into the following classes:

(1) Class I. Transmission lines, whether subterranean or overhead, including electrical, natural gas and water distribution lines, sewer gravity lines and pressure mains, underground septic tanks and drainfields, cable television and telephone transmission lines, or similar utility lines. Electrical lines and electrical transmission towers, except for nonmonopole structures such as steel lattice towers, are exempt from all setbacks that would otherwise be required by this Code. Cable television and telephone transmission lines that co-locate on electrical transmission towers that have been exempted from the setback requirements are exempt from all setbacks that would otherwise be required by this Code.
(2) Class II. Booster stations, pumping stations, switching facilities, substations, lift stations or other similarly required facilities in connection with telephone, nonwire communications, electricity, steam, water, water storage, sewer or other similar utilities. This classification is not intended to govern apparatus and functions set out in essential services class IV, more particularly defined below.
(3) Class III. Generation, production, or treatment facilities such as power plants, sewage treatment plants or similar utilities.
(4) Class IV. Subterranean neighborhood, or cabinet-style switching facilities designed to handle telephone transmissions within the immediate vicinity of the town.

Facilities, common means those facilities within a conservation residential development that are located on conservation land and are meant for the enjoyment and use of residents of that subdivision. The term "common facilities" includes, but is not limited to, ballfields, benches, playgrounds, trails, and paths.

Family means an individual, or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit, or a group of not more than six persons, who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit.

Family care home means a home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities, as defined in G.S. 160D-907(b)(2).

Farmland means those areas that are used for the production and activities related or incidental to the production of crops, fruit, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

Floodplain means any land area susceptible to being inundated by water from the base flood. As used in this chapter, the term refers to that area designated as subject to flooding from the base flood (or 100-year flood) on the Flood Boundary and

Floodway Map prepared by the U.S. Department of Housing and Urban Development, dated July 18, 1983 (or latest revision thereof), a copy of which is on file at the zoning administrator's office.

Floor area ratio means the total floor area of all buildings or structures in square feet, excluding parking decks, within a development divided by the total area of all lots or tracts containing that development.

Forestland means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet

Funeral chapel means a building used for the display of the deceased and ceremonies connected therewith before burial. No preparation or embalming of bodies or the cremation of bodies shall take place at a funeral chapel.

Government or town facility means a building or structure owned, operated, or occupied by a government agency to provide a governmental service to the public.

Green, village means a small, grassed open area that is centrally located in the neighborhood in which it is located and contains no structures other than benches, pavillions, memorials, etc.

Greenhouse, commercial means an establishment whose primary business is the growing of plants through the use of one or more on-premises greenhouses.

Gross area/acreage of a tract of land means the total square footage of a parcel excluding area contained in a current DOT easement that the developer will be deeding to NCDOT.

Gross floor area means the total area of a building (in square feet) measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage. Health/sports club means a facility designed and equipped for the conduct of sports, exercise or other customary and usual recreational activities, operated for profit or not-for-profit and which can be open only to bona fide members and guests of the club or open to the public for a fee.

Heritage Tree means a deciduous noninvasive native tree 20 inches DBH or larger.

- Oaks (Quercus) and Tulip Trees (Liriodendron) 20 inches DBH or larger
- Hickory and Pecans (Carya) 18 inches DBH or larger
- Southern Magnolias (Magnolia grandiflora) and other magnolias (Magnolia) 10 inches DBH or larger
- Red Maples (ACER Rubrum), Sugar Maples (Acer Saccharum), and Elms (Ulmus) 10 inches DBH or larger
- Dogwoods (Cornus Florida) 5 inches DBH or larger

Historic site means one or more parcels, structures, or buildings that is either included on the state register of historic properties or designated on the National Register of Historic Places, or authenticated as historic in a survey and report by a registered architect or architectural historian and which has been submitted to and approved by the town.

Historical marker means any manmade plaque or sign containing an inscription with historical information about a person, place, or event.

Horse farm or academy means a site where three or more horses are housed, bred, boarded, trained or sold.

Impervious surface means any material which reduces and prevents absorption of stormwater into previously undeveloped land.

Junkyard means the use of more than 600 square feet of the area of any lot for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

Kennel means an establishment in which more than six dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold for financial remuneration. A kennel shall not include pet shops or animal shelters.

Lake means any inland body of water that, in its natural state, has a surface area of two acres or greater, and any body of water artificially formed or increased that has a surface area of two acres or more.

LARTP (Local Area Regional Transportation Plan) means the plan developed in collaboration with and adopted by the Village of Marvin, the Town of Waxhaw, the Town of Weddington, and the Village of Wesley Chapel. The provisions of the plan are intended to ensure: (a) an integrated system of roads that provides safe and efficient traffic circulation; (b) the efficient movement of through traffic by providing an interconnected system of roads; (c) uncomplicated road layouts so that emergency service personnel, public service personnel and visitors can find their way to and from destinations; and (d) controlled access to thoroughfares.

Loading space, off-street means an off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

Lot means a parcel or tract of land in single ownership that is occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same. The term "lot" includes a plot or parcel.

Lot, building means a lot within a residential development that contains a principal residential dwelling.

Lot, corner means a lot located at the intersection of two or more streets. A lot abutting on a curved street or street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Lot, double frontage means any lot having access to two street rights-of-way.

Lot, easement means a lot that is connected to a public road for access via a recorded easement.

Lot, panhandle means a lot which contains a narrow strip providing street access.

Lot, single-tier means a lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

Lot, through means a lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

Lot area means the horizontal area within the legal lot lines of a lot, exclusive of the portions of the lot which lie within the street rights-of-way.

Lot depth means the average horizontal distance between the front and rear lot lines.

Lot line (property line) means the lines bounding a lot.

Lot of record means a lot which is a part of a subdivision, a plat of which has been recorded at the Union county register of deeds (or the Mecklenburg County Register of Deeds), or a lot described by metes and bounds, the description of which has been so recorded.

Lot width means the distance between side lot lines, measured at the building setback line.

Maintenance agreement means a binding agreement between a party and the town, which provides that the party will be responsible for the implementation of all maintenance and operational obligations set forth in the maintenance plan.

Maintenance plan means a plan that meets the requirements of and which provides for the continued operation and maintenance of conservation lands required under subsection D-804.

Map or zoning map means the official zoning map of the town.

Mobile home means a dwelling unit that is not constructed in accordance with the standards set forth in the state building code, is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and exceeds 40 feet in length and eight feet in width. A structure that would otherwise be characterized as a mobile home except that it is not used or held ready for use as a dwelling unit (e.g., is used as an office or some other business use) shall not be regarded as a mobile home.

Mobile home, Class A means a mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following criteria:

(1) The minimum width of the main body of the mobile home as assembled on the site shall not be less than 20 feet, as measured across the narrowest portion.
(2) The pitch of the home's roof has a vertical rise of one foot for each five feet of horizontal run.
(3) The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted), comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
(4) A continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, shall be installed upon a poured concrete footing after placement on the lot and before occupancy.
(5) The tongue, axles, transporting lights, and removable apparatus are removed after placement on the lot, and before occupancy.

Mobile home, Class B means a mobile home that meets all of the criteria of a class A mobile home except the width criteria.

Modular home means a dwelling unit constructed in accordance with the standards set forth in state building code (Uniform Residential Code for One- and Two-Family Dwellings), and composed of components substantially assembled in a manufacturing plant and transported to the site for final assembly on a permanent foundation.

Nonconforming use means any use of a building or land which does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of the ordinance from which this chapter is derived or as a result of subsequent amendments to this chapter.

Nuisance means an interference with the enjoyment and use of property.

Official maps or plans means any maps or plans officially adopted by the town council.

Open-air storage means an unroofed area for the storage of bulk materials or discarded items whether fenced or not but not including items and non-bulk materials openly displayed for the purpose of retail sale.

Open space means a land area or water feature that conserves, enhances, or creates natural or scenic resources and wildlife habitat or that enhances or creates outdoor recreational opportunities. Open space may be dedicated for public use (e.g. cluster mailbox locations, entrance monuments, etc.), or held under private ownership. Open space may be active (e.g., sports fields, playgrounds, etc.) or passive (e.g., bicycle, walking, and jogging trails, etc.) recreation. All conservation land, as defined above, is open space. However, all open space is not necessarily conservation land. As defined, open space may be land left in its natural state or grass and planted medians with trees in a residential, commercial, or non-residential development.

Primary Open Space means that portion of a tract that consists of viewsheds, floodplain, wetlands, lakes, ponds, hydric soils, and steep slopes greater than twenty five percent (25%) set aside in conventional developments for permanent and perpetual protection as required by this UDO.

Park means a noncommercial not-for-profit recreational facility. Such facilities could include parks within developments, neighborhood parks, community parks and/or regional parks. Improvements on parks may include passive (e.g., walking trails) and active (e.g., playgrounds, ballfields) facilities. Commercial amusement facilities (e.g., miniature golf, driving ranges, go-cart tracks, water slides, batting ranges, etc.) shall not be considered as being a park.

Planting Season means the period of time appropriate to plant material beginning October 1st each year and terminating May 1st the following year, seven months in total length.

Plat means a map or plan of a parcel of land which is to be or has been subdivided.

Pond means any inland body of water that in its natural state has a surface area of at least 1,000 square feet but less than two acres, and any body of water artificially formed or increased that has a surface area of 1,000 square feet but less than two acres.

Preschool facility means an educational facility for preschool children aged two to six years whose major purpose is to provide educationally-oriented classes and activities, as opposed to child care. Such classes shall be limited in time to five hours or less per day.

Preserve, habitat means a wooded area of local or state significance that is maintained in a natural state for the preservation of animal and/or plant life.

Principal use means the primary or predominant use on any lot.

Private driveway means a roadway serving two or fewer lots, building sites, or other division of land not intended to be public ingress or egress.

Park means a noncommercial, not-for-profit recreational facility. Such facilities could include parks within subdivisions, neighborhood parks, community parks and/or regional parks. Improvements on parks may include passive (e.g., walking trails) and active (e.g., playgrounds, ballfields) facilities. Commercial amusement facilities such as miniature golf courses, driving ranges, go-cart tracks, water slides, batting ranges, etc., shall not be considered parks.

Parking space means a storage space of not less than nine feet by 20 feet for one automobile and having access to a road, but not located within a road right-of-way.

Reservation means a designation of land that does not involve any transfer of property rights, but constitutes an obligation to keep property free from developments for a stated period of time.

Riding academy means an establishment where horses are boarded and cared for and where instruction in riding, jumping, and showing is offered and the general public may, for a fee, hire horses for riding.

Road, frontage means a local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

Road, local residential means cul-de-sacs, loop streets less than 2,500 feet in length, or streets less than one mile in length that do not connect thoroughfares, serve major traffic generators, or collect traffic from more than 100 dwelling units.

Road, private means an undedicated private right-of-way which affords access to abutting properties and requires a subdivision street's disclosure statement in accordance with G.S. 136-102.6.

Road, residential collector means a local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

Road right-of-way means an area of land occupied or intended to be occupied by a road, including areas offered for dedication for such purposes, areas claimed by the state for such purposes, or actually used for such purposes.

Rock formation means a portion of bedrock or other stratum protruding through the soil level.

Sanitary sewer system means a complete system of sewage collection, treatment and disposal including approved privies, septic tank systems, connection to public or community sewage systems, or other such systems, approved by the appropriate state agency.

Sewage means the wastewater, and its contents from kitchen, bathroom, toilet, lavatory and laundry of any residence, business establishment, institution, or any public building.

School. See Elementary and secondary schools .

School for the arts means an establishment where classes in the various arts (e.g., dance, painting, sculpting, music, yoga, etc.) are taught.

Service station, convenience store means an establishment which is normally open for extended hours which sells a limited variety of packaged and/or prepared foods and other conveniences (which may include gasoline) primarily for consumption and use off-premises. Sales of items are highly dependent upon convenience of location, store hours, speed of service and highway accessibility and are less dependent on comparison shopping.

Shared parking means that one or more parking spaces are permitted to simultaneously satisfy the parking requirements of multiple uses. Shared parking is permitted only where, because of the days and/or hours of operation of those uses sharing the parking or for other reasons, drivers associated with one use are unlikely to use the shared parking spaces at the same time those spaces are being used by drivers associated with another use.

Sign means any form of publicity, visible from any public highway directing attention to an individual activity, business service, commodity or product and conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trademarks or trade names or other pictorial matter designed to convey such information and displayed by means of bills, panels, posters, paints, or other devices erected on an open framework, or attached to or otherwise applied to posts, stakes, poles, trees, buildings, or other structures or supports.

Sign, attached (on-structure) means a sign applied or attached directly to the face of a building and becoming, or appearing to become, a part of the building. These signs are flush to the wall to which they are affixed.

Sign, building-mounted means any sign attached to and deriving its major support from a building, and including wall or fascia signs, projecting signs, and roof signs. These signs are perpendicular to the wall and protrude from the wall to which they are affixed.

Sign, construction announcement means a sign located on the premises of a construction site, identifying the purpose of the construction, the name of the architect, engineer, contractor, subcontractor and suppliers of material or equipment on the premises of work under construction.

Sign, directional means an off-premises sign, which provides directions to a business, commodity, service, or entertainment not conducted, sold or offered on the premises where the sign is located.

Sign, freestanding ground means any single- or double-sided sign, either monument-style or erected on a supporting structure, mast, post or pole and not attached, supported or suspended to or from any building or structure.

Sign, identification means a sign used to identify:

(1) The name of the individual, family, organization or enterprise occupying the premises;
(2) The profession of the occupant; or
(3) The name of the building on which the sign is displayed.

Sign, lighted means a sign illuminated only by light cast upon the sign from an external light source.

Sign, luminous means a sign lighted by or exposed to artificial lighting either by lights on or in the sign.

Sign, nonconforming means a sign or advertising structure existing within the town on the effective date of the ordinance from which this chapter is derived, which does not conform to the requirements of this ordinance.

Sign, orientation means an on-premises sign that directs pedestrians and traffic on a property.

Sign, off-premise means any advertising sign which advertises goods, products, or services not necessarily sold on the premises on which the sign is located.

Sign, on-premises means any sign identifying or advertising a business, person, activity, foods, products or services located on the same premises as the sign.

Sign, portable means any sign not permanently attached to the ground or building.

Sign, projecting means a sign attached to a building or other structure and extending beyond the surface of the supporting structure to which it is attached.

Sign, real estate means a temporary sign pertaining to the sale, lease or rental of land or building and identifying the selling agent.

Sign, subdivision sales means a sign located at the entrance of a subdivision, identifying lots and/or homes for sale. Subdivision sales signs may be permitted only after the final plat is approved by the town council.

Sign, temporary means any sign erected and maintained for a specific length of time.

Sign, time and temperature means a sign conveying a lighted message of time, temperature, barometric pressure, or similar information by means of electrical impulse or changing intervals.

Sign area. Sign area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire advertising copy area. Only one side of a double-faced sign shall be considered.

Sign setback means the shortest horizontal distance from the property line to the nearest point (leading edge) of the sign or its supporting member whichever is nearer to the property line.

Slope, steep means an area having a slope greater than 25 percent.

Small cell telecommunications facility means a facility, excluding cell towers and satellite television dish antenna, established for the purpose of providing wireless voice, data and/or image transmission within a designated service area. A small cell telecommunications facility must not be staffed, and consists of one or more antennas attached to a support structure. An antenna or wireless antenna base station which provides wireless voice, data and image transmission within a designated service area as part of a small cell telecommunications facility may consist of a low-powered access node with no more than five watts of transmitter output power per antenna channel, and may not be larger than a maximum height of three feet and a maximum width of two feet. A small cell telecommunications antenna may be installed on existing rooftops, utility poles, structures or support structures where permitted. A small cell telecommunications facility also consists of related equipment which may be located within a building, an equipment cabinet outside a building, an equipment cabinet on a rooftop, or an equipment room within a building.

Street means a dedicated and accepted public right-of-way for vehicular traffic, or a private road, when permitted by this chapter. The term "street" includes, but is not limited to, any road, freeway, highway, expressway or thoroughfare.

Street, collector means streets which carry traffic from minor streets to the system of major streets.

Street, marginal access means a minor street which is parallel to and adjacent to major streets and highways and which provides access to abutting properties and protection from through traffic.

Streets, minor (residential) means a street which is used primarily for access to the abutting properties.

Structure means any building, sign, wall, fence, or similar physical obstruction placed or erected on property.

Structure, principal means a structure in which is conducted the principal use of the lot on which it is located.

Structure setback line means a line establishing the minimum allowable distance between the nearest portion of any structure including porches and the nearest street right-of-way line when measured perpendicular thereto.

Subdivision means a division of a tract or parcel of land into two or more lots, building sites, or the divisions, when any one or more of those divisions is created for the purpose of sale or for a 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

Subdivision, exempt means:

(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 local government 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 local government, 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.

Subdivision, major means a subdivision where:

(1) New public or private streets or roads are proposed;
(2) More than six new lots are created after the subdivision is completed; or
(3) Any subdivision classified conservation residential development.

Subdivision, minor means a subdivision where six or fewer parcels result after the subdivision is completed, including any the subdivider owns, leases or holds any legal or equitable interest in and is adjacent to the property to be subdivided. For purposes of this section, property is deemed to be adjacent even if the property is separated by a street, easement or right-of-way.

Support structure(s) means monopoles, towers, utility poles, light poles, buildings or any other freestanding self-supporting structure which can safely support the installation of any new or additional proposed telecommunications facility.

Swimming pool means any in-ground or above-ground tank or tub for swimming or wading, excluding hot tubs, whirlpools, jacuzzies, and the like.

Telecommunication tower and facilities means a structure, including any accessory structures to house transmitting or maintenance equipment, designated to support antennae used for transmitting or receiving communication transmissions. The term "telecommunication tower and facilities" does not include ham radio operations, wireless radio towers, or television broadcast station towers.

Thoroughfare means streets which provide for movement of high volumes of traffic throughout the town. In general, thoroughfare streets consist of numbered state roads and other major streets as described in NCDOT, Union County, or Town of Weddington Thoroughfare Plans. Design criteria for thoroughfare streets shall be determined by the NCDOT, and construction plans shall be reviewed and approved by the NCDOT District Engineer.

Thoroughfare, major means a major thoroughfare as designated by the Mecklenburg-Union Thoroughfare Plan or Local Area Regional Transportation Plan (LARTP) and adopted by the town, as amended from time to time. The term "major thoroughfare" includes any other routes as designated by the town.

Thoroughfare, minor means a minor thoroughfare as designated by the Mecklenburg-Union Thoroughfare Plan or Local Area Regional Transportation Plan (LARTP) and adopted by the town, as amended from time to time. The term "minor thoroughfare" includes any other routes as designated by the town.

Use means the specific purpose for which land, a building, or a portion of a building is designed, arranged, intended, occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include a nonconforming use.

Used or occupied means and includes, as applied to any land or building, the terms "intended, arranged, or designed to be used or occupied".

Viewshed means a view through or along a road, or opening, including those along the boundaries of a stream, lake or pond, which frames, highlights, or accentuates a prominent structure, scene or panorama.

Wetlands means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas

Yard means any area on the same lot with a building or buildings lying between the building or buildings and the nearest lot line.

Yard, front means an open, unoccupied space between the street right-of-way line, and the front of a building, projected to the side lines of the lot.

Yard, rear means a yard extending the full width of the lot on which a principal building is located and situated between the rear lot line parallel thereto and passing through the point of the principal building nearest the rear lot line.

Yard, side means a space extending from the front yard to the rear yard between the principal building and the side lot line as measured perpendicular from the side lot line to the closest point of the principal building.

Yield plan means a plan that shows the number of developable lots in a proposed conservation residential development if such subdivision were to be built as a traditional residential development in a R-CD zoning district in the town.

(Ord. No 2022-02, 2022 10-10; Ord. No. 2023-02, 2023 03-13)

APPENDIX 2. SUBMITTAL REQUIREMENTS.

TEXT AMENDMENT

- Application provided by the Town.
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of amendments to text prior to approval.)
- The application shall contain a reference to the specific section subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change and the reasons therefor.

MAP AMENDMENT

- Application provided by the Town.
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of amendments to the map prior to approval.)
- A map exhibit showing the boundaries of the property and existing and proposed zoning district.

CONDITIONAL ZONING

- Application provided by the Town. Initiated by the owner of the property or authorized agent.
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of the rezoning amendments prior to approval.)
- Existing Resource/Site Analysis Plan (conservation residential development only). See Appendix 2A.
- Yield Plan (conservation residential development only). See Appendix 2B.
- Site plan drawn to scale per chart in Appendix 2B (architect, landscape architect, or engineer licensed to practice in the state). Said site plan, including all additional information shown on it, shall constitute part of the application for rezoning to a conditional zoning district
- *Development Standards* located on the site plan or as a separate notes section shall include any supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations and conditions that, in addition to all predetermined requirements of this chapter, will govern the development and use of the property.
- *General Provisions*
  - Site Location. Tax parcels, existing and proposed zoning district.
  - Existing uses.
  - Statement regarding vested rights.
  - A detailed description of all proposed phasing of development for the project.
- *Permitted Uses*
  - Proposed Uses and designated areas where those proposed uses will occur.
  - Number of units and an outline of the areas where the structures will be located.
  - Lot sizes for residential and nonresidential uses and proposed outparcels, as applicable.
  - Detailed information on the number, height, size and location of structures.
- *Transportation*
  - All existing and proposed points of access to public streets from the development.
  - Traffic impact analysis. The applicant shall be required to meet the requirements described in both the Traffic Impact Analysis Process and Procedures Manual, and Appendix C: Traffic Impact Analysis.
- *Design Guidelines*
  - All proposed setbacks, buffers, screening and landscaping.
  - A general description of other proposed signs including number, location, type and size of all signs. Actual approval of signs shall be a part of the administrative review of sign permits.
  - Scale and physical relationship of buildings relative to abutting properties. This may be accomplished by providing existing and proposed topographic elevation cross-sections of the site showing proposed structures relative to existing adjacent properties.

- Lighting plan.
- Pedestrian Connectivity Plan.

- *Architectural Standards*
  - Conceptual elevations (for mixed use, commercial or non-residential; residential at option of applicant).
  - Written description of exterior treatments of all principal structures including proposed materials and general architectural design and description of variations, façade fenestration, etc. (for mixed use, commercial or non-residential; residential at option of applicant).

VARIANCE

- Application provided by the Town.
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of a variance prior to approval.)
- Name, address and telephone number of the applicant, and property owner (if different from applicant), and a description of the subject property with reference to the deed book and page.
- Names and addresses of adjoining and contiguous property owners on all sides and across any street and public right-of-way from the subject property. This information shall be based upon the current year Union County and Mecklenburg County tax records.
- A map clearly showing the subject property and all contiguous property on either side and all property across any street or public right-of-way from the subject property.
- The application shall have the applicant respond to the following:
  - special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
  - a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.
  - said circumstances do not result from the actions of the applicant.
  - granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.
  - no nonconforming use of neighboring land, structures or buildings in the same district and no permitted use of land, structures or buildings in other districts will be considered grounds for the issuance of a variance.

APPEAL

- Application provided by the Town.
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of an appeal prior to approval.)
- A summary of the decision and reasoning for appeal.

PRELIMINARY PLAT (FOR SUBDIVISIONS)

- Application provided by the Town. Initiated by the owner of the property or authorized agent.
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of the preliminary plat and construction plans prior to approval.)
- Preliminary Plat with detailed information per Appendix 2A.

CONSTRUCTION DOCUMENTS (ALL) SEE SECTION D-609

- No separate application.
- No separate fee. However, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review.
- Construction plans requirements per Town of Weddington Construction Plan Guidelines as may be updated from time-to time by the Town Engineer.

- Landscape Plan.
- Detailed Elevations, as applicable (for non-residential developments during construction plan phase).

FINAL PLAT (FOR SUBDIVISIONS)

- Application provided by the Town. Initiated by the owner of the property or authorized agent.
- Fee (In addition, the town shall be reimbursed by the applicant for all costs associated with the town's engineering and/or consulting services with respect to review of the plat prior to approval.)
- Final Plat with detailed information per Appendix 2A.
- Signature Blocks as follows:

Certificate of Ownership and Dedication.

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Weddington and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

_____ *Owner*	_____ *Date*

Certificate of Survey and Accuracy in Accordance with the Standards and Practice for Land Surveying in the State.

On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to make acknowledgments and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which are not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of the information. The certificate shall take the following general form:

State of North Carolina, _____ County

I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____, etc.) (Other); that the ratio of precision as calculated by latitudes and departures is 1: _____, (that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____); that this map was prepared in accordance with G.S. 47-30, as amended.

Witness my original signature, registration number and seal this ___ day of _____, A.D. 20 ___.

	_____ *Registered Land Surveyor*
Official Seal	
	_____ *Registration Number*

Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements.

I hereby certify that all streets and other required improvements have been installed in an acceptable manner and according to N.C. Department of Transportation and/or Town of Weddington specifications and standards in the _____ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Weddington have been given and received.

_____ *Subdivision Administrator,* *North Carolina*	_____ *Date*

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Weddington, North Carolina and that this plat has been approved by the town for recording in the Office of the Register of Deeds of Union County.

_____ *Date*	_____ *Subdivision Administrator* *Town of Weddington, North Carolina*

OTHER MISCELLANEOUS SUBDIVISION PLAT APPROVALS – EXEMPT, RECOMBINATION, LOT LINE REVISIONS

- Application provided by the Town.
- Fee.
- Final Plat with detailed information per Appendix 2A.

Certificate of Approval for Recording

I hereby certify that the plat shown hereon has been found to comply with the zoning regulations of the Town of Weddington, North Carolina. This plat is exempt from the Town of Weddington's subdivision regulation ordinance.

_____ *Date*	_____ *Subdivision Administrator* *Town of Weddington, North Carolina*

EROSION CONTROL PERMIT

- Application (less than 1 acre disturbed) to be submitted with a zoning permit – Erosion and Sedimentation Control Compliance Form provided by the Town.
- Application (1 acre or greater disturbed) – Financial Responsibility/Ownership Form
- Fee
- Erosion Control Plan – Per Appendix 2C Erosion and Sedimentation Control Plan Checklist
- NCG01 Permit -New structures in a common plan of development or lots with areas greater than 1 acre disturbed must fill out an electronic Notice of Intent (e-N0I) form to receive a Certificate of Coverage (COC) under the NCG01 permit through NC DEMLR. A COC is required prior to obtaining a zoning permit.

ZONING PERMIT

1. *Single-Family and Two-Family Dwellings*. All Zoning Permit submittals for single-family and two-family dwellings, as well as any additions thereto, shall consist of the following items:

   a. A completed application, as provided by the Town.

   b. Application fee as set forth in the Fee Schedule having most recently been adopted by Town Council.

   c. A plot plan, prepared by a licensed surveyor or engineer, depicting the following:
   - North arrow, scale, location map and date prepared;

- All adjacent rights-of-way with indication of centerline and width, and paved width;
- Dimensions of existing lot lines, streets, drives, building lines, setbacks, structural overhangs, and building separations;
- Identification and description of watercourses, wetlands, tree masses, and other environmentally sensitive areas;
- Location, footprint and size of all existing and proposed buildings; and
- Location of all existing and proposed water lines, sanitary sewer lines, septic fields, and any proposed utility easements.

d. Architectural details including the following:
- Floor plans of the proposed structure (only where the dwelling includes an elevator shaft, or an accessory dwelling is associated with the proposal); and
- Building elevation drawings depicting proposed height and building materials.

e. *Exception*. If the proposed dwelling is to be located on a lot of ten acres or greater and is not to be located closer than 200 feet from any property line, then a plot plan sketch document may be provided in-lieu of a plot plan prepared by a licensed surveyor or engineer.

2. *Principal Uses Other Than Single-Family and Two-Family Dwellings*. All Zoning Permit submittals for a principal use other than single-family and two-family dwellings, as well as any additions thereto, shall consist of the following items:

a. A completed application, as provided by the Town.

b. Application fee as set forth in the Fee Schedule having most recently been adopted by Town Council.

c. A survey of the subject parcel as prepared by a licensed surveyor.

d. Civil plans, prepared by a licensed engineer, consisting of the following:
- Cover sheet with site data table;
- Demolition plan, if applicable;
- Site plan;
- Paving, grading and drainage plan;
- Utility plan;
- Lighting plan; and
- Landscape plan.

e. Architectural details including the following:
- A floor plan of the proposed structure; and
- Building elevations drawings depicting proposed height and building materials.

f. Traffic Impact Analysis (TIA), if applicable, prepared consistent with the most recent version of the Town's TIA Procedures Manual.

3. *Accessory Buildings, Decks, and Patios on Residential Property*.

a. All Zoning Permit submittals for an accessory building, deck or patio that is less than or equal to 200 square feet on residential property shall be accompanied by the following items:

1. A completed application, as provided by the Town.

2. Application fee as set forth in the Fee Schedule having most recently been adopted by Town Council.

3. A plot plan sketch depicting the following:
- Lot boundary;
- Location and square footage of all existing principal and accessory structures;
- Location, square footage, and dimensions of proposed structures; and
- Distance of the proposed structure from the front, side, and rear lot lines.

4. Building elevations drawings depicting proposed height and building materials, or manufacturers specification sheet/details.

b. All Zoning Permit submittals for an accessory building, deck or patio that is greater than 200 square feet on residential property shall be accompanied by the following items:

1. A completed application, as provided by the Town.
2. Application fee as set forth in the Fee Schedule having most recently been adopted by Town Council.
3. A plot plan, prepared by a licensed surveyor or engineer, depicting the following:
   - North arrow, scale, location map and date prepared;
   - All adjacent rights-of-way with indication of centerline and width, and paved width;
   - Dimensions of existing lot lines, streets, drives, building lines, setbacks, structural overhangs, and building separations;
   - Identification and description of watercourses, wetlands, tree masses, and other environmentally sensitive areas;
   - Location, footprint and size of all existing and proposed buildings; and
   - Location of all existing and proposed water lines, sanitary sewer lines, septic fields, and any proposed utility easements.
4. Architectural details including the following:
   - A floor plan of the proposed structure; and
   - Building elevation drawings depicting proposed height and building materials.
5. Exception. If the proposed accessory structure is to be located on a lot of ten acres or greater and is not to be located closer than 200 feet from any property line, then a plot plan sketch document may be provided in-lieu of a plot plan prepared by a licensed surveyor or engineer.

c. All Zoning Permit submittals for buildings for agricultural purposes shall be accompanied by the following items:

1. A completed application, as provided by the Town.
2. Application fee as set forth in the Fee Schedule having most recently been adopted by Town Council.
3. A plot plan sketch depicting the following:
   - Lot boundary;
   - Location and square footage of all existing principal and accessory structures;
   - Location, square footage, and dimensions of proposed structures; and
   - Distance of the proposed structure from the front, side, and rear lot lines.
4. Building elevations drawings depicting proposed height and building materials, or manufacturers specification sheet/details.

4. *Upfits*. All Zoning Permit submittals for an upfit of an existing residential or non-residential building, as well as any associated accessory structures or decks, shall be accompanied by the following items:

a. A completed application, as provided by the Town.

b. Application fee as set forth in the Fee Schedule having most recently been adopted by Town Council.

c. A floor plan depicting the existing and proposed improvements.

(Ord. No. 2022-03, 2022 10-10; Ord. No. 2023-01, 2023 02-13)

CERTIFICATE OF COMPLIANCE.

- Application provided by the Town. Initiated by the owner of the property or authorized agent.
- Fee
- A physical survey certified* as accurate by a surveyor or engineer registered with the state including:
  - the lot boundary;
  - dimensions of the proposed structure;
  - setbacks; and
  - the distance the structure is from the front, sides and rear lot lines of the lot labeled on the plan.

*for residential properties, that if the tract that the residence is constructed on contains ten acres or more, then the person applying for the certificate of compliance shall be allowed to present a noncertified sketch in lieu thereof, provided that the residence is not to be located closer than 200 feet from any of the boundaries of the tract. If the proposed residence is to be located closer than 200 feet from any of the boundaries of the tract, then the applicant shall

submit a certified survey of the improvements with respect to those boundaries only. The sketch submitted shall in all other respects comply to the requirements set forth above.

SIGN PERMIT

- Application provided by the Town.
- Fee.
- Elevation showing the linear feet of the facade from side to side, existing signs and square feet and the proposed sign and square feet.
- Site plan (for free standing signs).

TEMPORARY STRUCTURES INCLUDING MOBILE HOMES, CONSTRUCTION TRAILERS, AND SUBDIVISION SALES OFFICES

- Application provided by the Town.
- Fee
- Site plan depicting the following:
  - Size of temporary structures including dimensions
  - Location of structure including all setbacks & buffers
  - Parking for temporary use

TEMPORARY USES INCLUDING EVENTS

- A site plan showing parking and the layout of event area, temporary structures and sign locations
- Narrative including:
  - Nature of use
  - Duration of use
  - Hours of operation
  - Lighting
  - Projected attendance
  - Waste/trash disposal
- Other Submittal Requirements (if applicable):
  - Proof of adequate insurance to cover the event
  - Review from Union County Sheriff's Department regarding traffic and crowd control
  - Union County mass gathering permit
  - Department of Revenue weekend Temp Sales and Use ID# for retail sales

APPENDIX 2A.

- No Application – precursor to conservation residential development site walk and design/charette and precursor to formal application with site plan submittal.
- No Fee
- Existing Resource/Site Analysis Plan
- Conditions beyond the tract boundaries may be described on a more general basis from existing published data available from governmental agencies, and from aerial photographs and need not be as specific as those that are required for the development site. Unless otherwise requested by the subdivision administrator to facilitate readability, such plans shall be prepared at a scale of one-inch equals 100 feet or one-inch equals 200 feet, whichever would fit best on a single standard size sheet (24 inches by 36 inches). The following information shall be included in this plan:
  - An aerial photograph enlarged to the same scale as the ER/SA Map, with the site boundaries clearly marked.
  - Topography, the contour lines of which shall generally be at two-foot intervals, determined by photogrammetry. Slopes shall be clearly indicated when they are between ten and 15 percent, between 15 and 25 percent, or when exceeding 25 percent. Topography shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official USGS benchmarks. Such contour lines shall also be superimposed on the aerial photo, in a contrasting color to facilitate legibility.
  - The location and delineation of ponds, lakes, streams, ditches, natural drainage swales, wetlands, and floodplains. Additional areas of wetlands on the proposed development tract shall also be indicated, as evident from testing, visual inspection, or from the presence of wetland vegetation.
  - Vegetative cover conditions on the property according to general cover type including cultivated land, permanent grass land, meadow, pasture, hedgerow, forestland and wetland, location of trees with a caliper in excess of 15 inches, the actual canopy line of existing trees and forestlands. Vegetative types shall be described by plant community, relative age and condition.
  - Soil series, types and phases, as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Service in the published soil survey for the county, and accompanying data published for each soil relating to its suitability for construction (and, in unsewered areas, for septic suitability).
  - Ridge lines showing boundaries of catchment areas for stormwater runoff.
  - A viewshed analysis showing the location and extent of views into the property from public roads and from public parks, and from the boundaries of lakes, ponds, and streams on the site.
  - Geologic formations on the proposed development parcel, such as rock formations and outcroppings, and fault lines, based on available published information or more detailed data obtained by the applicant.
  - All existing manmade features including, but not limited to, streets, driveways, farm roads, forest roads, buildings, foundations, walls, wells, drainage fields, dumps, utilities, fire hydrants, and sanitary sewers.
  - Locations of all historic sites on the tract.
  - Locations of trails that have been in public use (pedestrian, equestrian, bicycle, etc.).
  - All easements and other encumbrances of property which are or have been filed of record with the county register of deeds.
  - Total acreage of the tract, and the location and acreage of primary conservation lands.

APPENDIX 2B.

Information to be contained in or depicted on a site plan (schematic plan) preliminary and final plats.

An "X" indicates that the information is required.

Information	Schematic Plan	Final Plat	Reference Number
Title block containing the subdivision name	X	X	B1
Location (including township, county and state)	X	X	B2
Developer Name and contact information	X	X	B3
Civil engineer and contact information	X	X	B4
Consulting engineers and contact information (if applicable)	X	X	B5
Table of Contents	X	X	B6
Vicinity Map with North arrow showing the relationship between the proposed subdivision and surrounding area	X	X	B7
The registration numbers and seals of the professional engineers and land surveyors	X	X	B8
Existing Conditions	**Schematic Plan**	**Final Plat**	**Reference Number**
Acreage of the total tract(s) to be subdivided	X		B9
The name and location of any property/building within the proposed subdivision or within any contiguous property listed on the U.S. Department of Interior's National Register of Historic Places or is designated as a local historic property by the County or town	X	X	B10
Vicinity map with North arrow showing the relationship between the proposed subdivision and surrounding area.	X	X	B11
Exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings with adjacent parcel numbers and owner names	X	X	B12
Street and lots of adjoining properties within 300' and names of the owners of the adjoining property		X	B13

Marshes, ponds, streams and stream beds, wetlands, steep slopes, and other natural features effecting the site.	X	X	B14
Existing Structures, watercourses, railroads, bridges, culverts, and storm drains both on the land to be subdivided and adjacent parcels		X	B15
Existing topography with vertical datum NAVD88 with 1' or 2' contours	X	X	B16
Existing tree locations per the UDO Tree Preservation Requirements	X		B17
Location of all easements and utilities	X		B18
Parcel description from Union County GIS	X		B19
Zoning classification of the tract to be subdivided and on adjoining properties.	X		B20
Proposed Site Improvements	**Schematic Plan**	**Final Plat**	**Reference Number**
Plans to be scale of not greater than 100' per inch and consistent between sheets. Listed in words and figures	X	X	B21
A traffic impact assessment per Appendix C and as required by the Traffic Impact and Analysis Manual.	X		B22
Entrances: Schematic plans shall include a detailed entrance design for all proposed access points. This design must illustrate the alignment and dimensions of the entrance road, pavement width, median layout (if applicable), and integration with existing public rights-of-way. Additionally, the plan shall identify monument sign locations, any landscape islands, lighting, and hardscape features associated with the entrance. All entrance designs should reflect the character of the proposed development and be consistent with applicable NCDOT and Town of Weddington access requirements and ordinance standards.	X		B23
Location and dimensions of required buffers and minimum building setback lines (berms, natural buffers, etc.)	X	X	B24
Percentage of open space required and provided	X		B25
Proposed landscape plan for buffers and entrances	X		B26

Identification and delineation** of proposed septic system, including locations of drain fields, repair areas, and associated infrastructure, with improvement permits, A-2 permits or public sewer lines, if applicable.	X		B27
Proposed topography with vertical datum NAVD88 with the topo map showing contours of 1' or 2' elevation contours	X	X	B28
Location of all retention ponds	X		B29
Location of all swales and ditches	X		B30
Preliminary storm water lines and structure (if applicable)	X		B31
Preliminary calculations of proposed impervious surface and runoff volume to see proportionally sized BMP ponds.	X		B32
Designation of site-specific Flood Protection Elevation (FPE) in compliance with FEMA and local codes.	X	X	B33
Exact location of the flood hazard, floodway, and floodway fringe areas from the town's FEMA maps	X	X	B34
Preliminary drainage, stormwater management plan and wetland protection plan	X	X	B35
Preliminary proposed details of stormwater structures, flumes, etc.	X		B36
Preliminary locations of all utility and other easements.	X	X	B37
Compliance with setbacks from streams	X	X	B38
A preliminary erosion control plan with proposed limits of disturbance.	X		B39
The future ownership (dedication of reservation for public use to government body, HOA, or tenants remaining in subdivider's ownership) of recreational and open space lands		X	B40
Proposed lot lines, lot sizes, consecutive numbered lots with building pad locations showing the smallest lot and average lot size.	X		B41
All setbacks delineated**		X	B42

**Delineated/Delineation refers to precise marking or documentation of boundaries, work zones, and responsibilities within a construction site. It ensures clarity among project stakeholders.

The exact locations and descriptions of all monuments, markers, and control points		X	B43
A copy of notification submitted to the Facilities Director of UC Public Schools and the Chairman of the Board of Education, stating the number of lots requested in the plat application	X	X	B44
A copy of permits from the Army Corps of Engineers	X		B45
A yield plan demonstrating 40,000 sq ft minimum lot size with UDO compliance.	X		B46
A preliminary lighting plan for street lights, amenity lights, and parking lot lights (if applicable)	X		B47
Roads	**Schematic Plan**	**Final Plat**	**Reference Number**
Proposed roads with horizontal and vertical alignment	X	X	B48
A preliminary proposed street layout with pavement and right-of- way widths and proposed grades	X	X	B49
Existing and platted roads on adjoining properties and in the proposed subdivision	X	X	B50
Amenity Areas (if applicable)	**Schematic Plan**	**Final Plat**	**Reference Number**
Club house location	X	X	B51
Club house parking	X	X	B52
Pools and/or sport courts and fields	X	X	B53
Walking trails and paths requiring improvement (grading, stone, fencing, etc.)	X	X	B54

Heritage Trees	Schematic Plan	Final Plat	Reference Number
Indicate Heritage trees proposed for removal and provide preservation/mitigation plans per the Weddington Tree Ordinance.	X		B55
Indicate perimeter protect area required during construction	X		B56
A tree survey in accordance with the Town of Weddington Tree Ordinance indicating Heritage trees and the limits of proposed tree protection	X		B57

APPENDIX 2C.

EROSION AND SEDIMENTATION CONTROL PLAN PRELIMINARY REVIEW CHECKLIST

The following items shall be incorporated with respect to specific site conditions, in an erosion & sedimentation control plan:

NPDES CONSTRUCTION STORMWATER GENERAL PERMIT NCG010000:

_____ Designation on the plans where the 7 or 14 day ground stabilization requirements apply per Part II.E.1 of the permit.

_____ Design of basins with one acre or more of drainage area for surface withdrawal as per Part II.B.8 of the permit.

LOCATION INFORMATION:

_____ Project location & labeled vicinity map (roads, streets, landmarks)

_____ North arrow and scale

_____ Identify River Basin.

_____ Provide a copy of site located on applicable USGS quadrangle and NRCS Soils maps if it is in a River Basin with Riparian Buffer requirements.

GENERAL SITE FEATURES (Plan elements):

_____ Property lines & ownership ID for adjoining properties

_____ Existing contours (topographic lines)

_____ Proposed contours

_____ Limits of disturbed area (provide acreage total, delineate limits, and label). Be sure to include all access to measures, lots that will be disturbed, and utilities that may extend offsite.

_____ Planned and existing building locations and elevations

_____ Planned & existing road locations & elevations, including temporary access roads

_____ Lot and/or building numbers

_____ Hydrogeologic features: rock outcrops, seeps, springs, wetland and their limits, streams, lakes, ponds, dams, etc. (include all required local or state buffer zones and any DWQ Riparian Buffer determinations)

_____ Easements and drainageways, particularly required for offsite affected areas. Include copies of any recorded easements and/or agreements with adjoining property owners.

_____ Profiles of streets, utilities, ditch lines, etc.

_____ Stockpiled topsoil or subsoil locations

_____ If the same person conducts the land-disturbing activity & any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land-disturbing activity unless the borrow or waste activity is regulated under the Mining Act of 1971, or is a landfill regulated by the Division of Waste Management. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered separate land-disturbing activities and must be permitted either through the Sedimentation Pollution Control Act as a one-use borrow site or through the Mining Act.

_____ Location and details associated with any onsite stone crushing or other processing of material excavated. If the affected area associated with excavation, processing, stockpiles and transport of such materials will comprise 1 or more acres, and materials will be leaving the development tract, a mining permit will be required.

_____ Required Army Corps 404 permit and Water Quality 401 certification (e.g. stream disturbances over 150 linear feet)

EROSION & SEDIMENT CONTROL MEASURES (on plan):

_____ Legend (provide appropriate symbols for all measures and reference them to the construction details)

_____ Location of temporary measures

_____ Location of permanent measures

_____ Construction drawings and details for temporary and permanent measures. Show measures to scale on plan and include proposed contours where necessary. Ensure design storage requirements are maintained through all phases of construction.

_____ Maintenance requirements for measures

_____ Contact person responsible for maintenance

SITE DRAINAGE FEATURES:

_____ Existing and planned drainage patterns (include off-site areas that drain through project and address temporary and permanent conveyance of stormwater over graded slopes)

_____ Method used to determine acreage of land being disturbed and drainage areas to all proposed measures (e.g. delineation map)

_____ Size, pipe material and location of culverts and sewers

_____ Soil information: type, special characteristics

_____ Soil information below culvert storm outlets

_____ Name and classification of receiving water course or name of municipal operator (only where stormwater discharges are to occur)

STORMWATER CALCULATIONS:

_____ Pre-construction runoff calculations for each outlet from the site (at peak discharge points). Be sure to provide all supporting data for the computation methods used (rainfall data for required storm events, time of concentration/storm duration, and runoff coefficients).

_____ Design calculations for peak discharges of runoff (including the construction phase & the final runoff coefficients for the site)

_____ Design calcs for culverts and storm sewers (include HW, TW and outlet velocities)

_____ Discharge and velocity calculations for open channel and ditch flows (easement & rights-of-way)

_____ Design calcs for cross sections and method of stabilization for existing and planned channels (include temporary linings). Include appropriate permissible velocity and/or shear stress data.

_____ Design calcs and construction details for energy dissipaters below culvert and storm sewer outlets (include stone/material specs & apron dimensions). Avoid discharges on fill slopes.

_____ Design calcs and dimension of sediment basins (note current surface area and dewatering standards as well as diversion of runoff to the basins). Be sure that all surface drains, including ditches and berms, will have positive drainage to the basins.

VEGETATIVE STABILIZATION

_____ Area & acreage to be stabilized with vegetation

_____ Method of soil preparation

_____ Seed type & rates (temporary & permanent)

_____ Fertilizer type and rates

_____ Mulch type and rates (include mulch anchoring methods)

NOTE: Plan should include provisions for groundcover in accordance with NPDES Construction Stormwater General Permit NCG010000.

FINANCIAL RESPONSIBILITY/OWNERSHIP FORM

_____ Completed, signed & notarized FR/O Form

_____ Accurate application fee payable to NCDEQ ($65.00 per acre rounded up the next acre with no ceiling amount)

_____ Certificate of assumed name, if the owner is a partnership

_____ Name of Registered Agent (if applicable)

_____ Copy of the most current Deed for the site. Please make sure the deed(s) and ownership information are consistent between the plan sheets, local records and this form.

_____ Provide latitude & longitude (in decimal degrees) at the project entrance.

_____ Two hard copies of the plans (some regional offices require additional plans or multiple sizes; please contact the regional coordinator prior to such submittal.)

NOTE: For the Express Permitting Option, inquire at the local Regional Office for availability. Express Reviews are performed by appointment only.

NARRATIVE AND CONSTRUCTION SEQUENCE

_____ Narrative describing the nature & purpose of the construction activity.

_____ Pre-construction conference, if requested.

_____ Construction sequence related to erosion and sediment control (including installation of critical measures prior to the initiation of the land-disturbing activity & removal of measures after areas they serve are permanently stabilized). Address all phases of construction and necessary practices associated with temporary stream bypasses and/or crossings.

_____ Bid specifications related only to erosion control

~~APPENDIX 3. APPROVED PLANT LIST~~. Repealed (O-2025-01)

Union County Urban Foresters Species list

APPENDIX 4. LIGHTING.

Sec. 14-81. - Purpose.

The purpose of this article is to improve nighttime public safety, utility, and security by restricting the nighttime emission of light rays. New lighting technologies have produced lights that are extremely powerful, and these lights may be improperly installed so that they create problems of excessive glare, light trespass, and higher energy use. Excessive glare can be annoying and may cause safety problems. Light trespass reduces everyone's privacy, may be detrimental to the aesthetic values of the town, and can restrict people from the peaceful enjoyment of then- property. Higher energy use results in increased costs for everyone. This article is intended to reduce the problems caused by excessive lighting, or by improperly designed and installed outdoor lighting.

(Ord. No. O-2000-01, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

Sec. 14-82. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Average to minimum means the ratio of average footcandles to the minimum footcandle point calculation or reading for a given area. This ratio is generally maintained footcandles but could be initial. This ratio is an indicator of lighting uniformity. The lower the ratio, the better the uniformity.

Backlight, uplight, and glare (BUG) rating. A luminaire classification system that classifies backlight (B), uplight (U), and glare (G) ratings to evaluate luminaire optical performance related to light trespass, sky glow, and high angle brightness control.

Candlepower means luminous intensity. The term "candlepower" is normally associated with a directional type fixture such as a floodlight.

Direct light means light emitted directly from the lamp, off the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.*Fixture* means the assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Floodlight or*spotlight* means any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction with a wide or narrow beam.

Footcandle means the amount of light falling on a surface, measured or calculated. It can be quantified as one lumen per square foot.

Footcandles, average, means the average of a number of points of footcandle calculations or footcandle readings in a given area. They could be initial or maintained.

Footcandles, average maintained, means the average of a number of points of footcandle calculations or footcandle readings in a given area which have been adjusted to account for maintenance factor, which includes luminaire dirt depreciation (LDD) and lamp lumen depreciation (LLD).

Footcandles, initial, means footcandles that are calculated with no adjustment for dirt build-up in the fixture or lamp lumen depreciation. Initial footcandles should be measured when a lighting system is new and after 100 hours of lamp burn-in time. Car dealerships are often designed using initial footcandles.

Footcandles, maintained, means footcandles that are calculated with an adjustment for a maintenance factor to include dirt buildup in the luminaire (fixture) and lamp lumen depreciation. The system is, in effect, overdesigned initially so the gradual decrease in light output reaches the design foot-candle level at a predetermined maintenance interval.

Full cutoff (fully shielded lights) means outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the 90-degree horizontal plane, as certified by a photometric test report.

Glare means light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see or, in extreme cases, causing momentary blindness.

Indirect light means direct light that has been reflected or that has scattered off of other surfaces.

Lamp means the component of a luminaire that produces the actual light.

Light trespass means the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Lumen output, initial, means ratings of a lamp as listed in a lamp catalog.

Lumens means the total quantity of light emitted from a light source, or a unit of luminous flux. One footcandle is one lumen per square foot. For the purpose of this article, the lumen output values shall be the initial lumen output ratings of a lamp.

Luminaire means a complete lighting system and includes a lamp or lamps and a fixture, housing, reflector, refractor, etc.

Maximum to minimum means the ratio of the maximum footcandle point calculation or reading to the minimum footcandle point calculation or reading for a given area. This ratio is generally maintained footcandles but could be initial. This ratio is an indicator of lighting uniformity. The lower the ratio, the better the uniformity.

Maximum means the maximum footcandle point calculation or reading in a given area. The maximum is generally maintained footcandles but could be initial.

Minimum means the minimum footcandle point calculation or reading in a given area. The minimum is generally maintained footcandles but could be initial.

Mounting height of luminaire means the vertical distance from the ground directly below the centerline of the luminaire to the center of the light source (lamp) in the luminaire.

Outdoor lighting means the nighttime illumination of an outside area or object by any manmade device located outdoors that produces light by any means.

Pre-existing luminaires means luminaires not conforming to this article that were in place at the time the ordinance from which this article is derived was adopted.

Temporary outdoor lighting means the nighttime illumination of an outside area or object by any manmade device located outdoors that produces light by any means for a period of less than seven days, with at least 180 days passing before being used again.

(Ord. No. O-2000-01, art. 1, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

Sec. 14-83. - Regulations.

All public and private outdoor lighting installed in the town shall be in conformance with the requirements established by this article. The provisions of this article are intended to supplement other applicable codes and requirements. Compliance with all applicable provisions of building, electrical and other codes must be observed. In the event of a conflict between the requirements of this article and other requirements, the more stringent requirement shall apply.

(Ord. No. O-2000-01, § 2-1, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

Sec. 14-84. - Control of glare, light trespass and light levels.

(a) *Glare control.* All fixtures other than floods shall be fully shielded and shall be classified as full cutoff, as classified by the IESNA. This shall mean that no light is to be emitted out of the fixture above the 90 degree horizontal plane. Floodlights are to be equipped with shields and aimed so as to direct the light onto the area to be lighted.

(b) *Light trespass.* The horizontal illuminance on the ground shall not exceed 0.5 maintained footcandles at the property line.

(c) *Light levels.* The following table summarizes the recommended light levels for general parking and pedestrian areas.

LIGHT LEVELS FOR GENERAL OUTDOOR

	Use/Task	Average Illuminance (Footcandles)	Uniformity Ratio (Average to Minimum)
(a)	Local Street Classification (Residential/Low Pedestrian Activity)	0.4	6:1
(b)	Collector Street Classification (Commercial/Medium Pedestrian Activity)	0.9	4:1
(c)	Parking (residential, multifamily)		
	• Low vehicular/pedestrian activity	0.2	6:1
	• Medium vehicular/pedestrian activity	0.6	6:1
(d)	Parking (industrial/commercial/institutional/municipal)		
	• High activity, i.e., hospitals, regional shopping centers/fast-food facilities, major athletic/civic cultural events	0.9	4:1
	• Medium activity, i.e., community shopping, office parks, commuter lots, cultural/civic/recreational events	0.7	4:1
	• Low activity, i.e., neighborhood shopping, industrial employee parking, schools, church parking	0.4	4:1
(e)	Walkways and bikeways		
	• Low density residential (2 or less dwellings/acre)	0.3	6:1
	• Medium density residential (more than 2 dwellings/acre)	0.4	4:1
(f)	Building entrances	5.0	2:1

Notes:

1. Illumination levels are horizontal on the task, e.g. pavement or area surface.

2. *Uniformity ratios dictate that average illuminance values shall not exceed minimum values by more than the product of the minimum value and the specified ratio. For example, for commercial parking high activity, the average footcandles shall not be in excess of 3.6 (0.9 x4).*

3. Any low or medium activity can be reclassified upward with town approval when appropriate.

4. Lighting levels may be less than the listed footcandles.

Sources: IESNA RP-33-14, RP-8-18, Lighting Handbook 10''' edition

(d) *Gas station/convenience store lighting.* Lighting levels for convenience stores, gas station and other similar locations shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to such businesses. Signs allowed under this UDO shall be used for that purpose. Facilities having canopies shall be restricted to low-profile surface mounted or recessed fixtures, including lenses, mounted flush with the bottom of the canopy. The design light level shall be 20 footcandles average maintained, at ground level at the gas pump island area. Canopy fixtures shall have lumen packages of 10,000 (maximum), 4000K; and meet the glare requirements for G1 BUG Rating. Lights shall not be mounted on the top or sides (fascias) of the canopy, and the sides (fascias) of the canopy shall not be illuminated.

(e) *Sports field lighting.* Lighting for sports fields is generally in excess of general outdoor lighting levels. Recreation lighting levels established by the IESNA are to be used as the standard. Higher lighting levels for tournament or high league play are sometimes required and must be approved by the town prior to construction. All sports fields must meet the following minimum standards:

(1) Fixtures must not exceed 80 feet in mounting height, including bases and/or other mounting structures.

(2) Fixtures must be fitted with the manufacturer's glare control package. If the manufacturer does not have a glare control package, the fixture specification must be changed to a manufacturer that offers a glare control package.

(3) Fixtures must be designed with a sharp cutoff and aimed so that their light beams fall within the primary playing area and the immediate surroundings, so that off-site direct illumination is significantly restricted.

(4) Lighting shall be extinguished no later than one hour after the event ends.

(f) *Signs.*

(1) Lighting fixtures illuminating signs shall be carefully located, aimed and shielded so that light is directed only onto the sign facade and glare is significantly reduced. Lighting fixtures shall not be aimed toward adjacent streets, roads or properties.

(2) Lighting fixtures illuminating signs shall be of a type such that the light source (bulb) is not directly visible from adjacent streets, roads or properties.

(3) Internally illuminated signs are prohibited.

(4) To the extent practicable, lighting fixtures shall be directed downward rather than upward.

(5) This article does not regulate outdoor signs. Such regulations have been adopted and can be found in D-918.K.

(g) *Building facades, ornamental and general use lighting.* All ornamental and general use fixtures attached to buildings or structures shall be located, aimed, and shielded so that direct illumination is focused exclusively on the building facade or the ground immediately below the fixture. Additionally, these fixtures shall also meet the following standards:

(1) All wall-mounted fixtures, wall packs, porch lights, ceiling mounted, and pendant style fixtures shall be full cutoff fixtures.

Exception: The fixture delivers a maximum of 1,000 lumens output (equivalent to a 60-watt incandescent bulb) and utilizes a translucent lens covering the light source.

(2) All recessed ceiling fixtures incorporating a lens cover shall be restricted to lenses that are either recessed or flush with the ceiling.

(3) Lamps providing minimum exit discharge lighting as required by the NC Building Codes shall be shielded unless otherwise exempt.

(4) Dual purpose fixtures (general use and exit discharge) fitted with battery back-up for emergency use shall be full cut-off. Those fixtures that come on only during an emergency or power outage are exempt.

(5) All LED lighting attached to buildings or structures shall have a maximum BUG rating of B2, U0, G2, unless otherwise exempted or excepted.

(h) *Softscape/holiday/festive lighting.* All softscape (landscape) lighting shall be aimed and shielded, if necessary, so as not to cause a hazard to a motorist or pedestrian. All fixtures shall be less than 50 watts. All holiday lighting shall be temporary in nature and shall be used only during the holiday or festive celebration period.

(i) *Security lighting.* All dusk-to-dawn security lights (aka: barn light, yard light, power-arm refractor) shall be full cutoff fixtures with a maximum rating of 9,500 fixture lumens (6,000 fixture lumens in residential zoning districts) with a mounting height not to exceed 25 feet.

(1) All new dusk-to-dawn utility type fixtures must be equipped with a reflector shield that provides a full cutoff light distribution as defined in Sec. 14-82 of this article. An approved alternative is to install a different type of fixture that has a full cutoff light distribution with a maximum rating of 9,500 lumens.

(2) All new LED dusk-to-dawn utility type fixtures shall comply with the LED standards listed in subsection (k) below.

(j) All LED lighting shall meet the B-U-G ratings noted in the applicable subsections and comply with all other applicable requirements, and shall also meet the following standards:

(1) The LED correlated color temperature (CCT) shall not exceed 4,000K (Kelvin degrees).

(2) The maximum number of fixture lumens shall not exceed 6,500 in residential districts or 20,000 lumens in non-residential districts or for legal non-residential uses in residential districts, unless otherwise allowed or exempted.

(k) *Street lighting.*

(1) Existing non-LED streetlights may be replaced with similar non-LED fixtures where warranted by NCDOT and approved by the administrator.

(2) General design standards.

a. *Spacing.* In areas where post-mounted fixtures (18-foot mounting height or less) are installed, the spacing of posts should be adjusted to the particular fixtures used and as approved by the director of public works or his/her designee. IESNA Recommended Practice 8 (Roadway Lighting) should be used as a guide for street lighting design.

b. *Alignment.* Street lighting on newly constructed streets shall be alternately staggered on each side of the street wherever possible.

c. *Luminance,* street lighting fixtures shall meet the following lumen ratings:

1. In residential districts—No greater than 6,500 fixture lumens, with exceptions noted in subsection (5) below.

2. In non-residential districts—No greater than 20,000 fixture lumens, with exceptions noted in subsection (5) below.

d. *Mounting support.* It is preferred that existing poles and associated mounting hardware be used to mount streetlights. However, decorative poles and associated mounting hardware may be used upon agreement between the requestor and the town.

e. *Variations in land elevations.* Where land elevations vary and cause the street lighting poles to be installed higher or lower than adjacent roads or property, thus causing offensive light trespass and/or glare, the administrator may require shields to be installed on the fixtures at the time of the installation or afterwards. If shields do not correct the problem sufficiently, the administrator may require that one or more of the following measures be implemented to mitigate the conflict to the maximum extent possible:

1. Change the aiming of offending fixtures,
2. Change the location and/or mounting height or the offending poles,
3. Change the light distribution pattern of the offending fixtures, or
4. Remove the offending poles and fixtures from the site.

(3) LED street lighting shall comply with the standards in subsection (k) and shall have a maximum BUG rating of B3, U3, G3 on non-residential streets, and a maximum of B2, Ul, G2 on residential streets.

Exceptions:

a. Use of LED streetlights in residential areas over 6,500 and up to 8,200 fixture lumens are allowed at intersections and safety sensitive locations, as deemed necessary by the administrator.

(Ord. No. O-2000-01, § 2-2, 8-14-2000; Ord. No. O-2003-11, § 1, 5-12-2003; O-2009-09, 7-13-2009; Ord. No. O-2019-02, 5-13-2019)

Sec. 14-85. - Exceptions and exemptions to general design standards.

(a) The design for an area may suggest the use of parking lot lighting, area lighting and roadway fixtures of a particular period or upscale architectural style such as the nostalgic lantern as either alternatives or supplements to the lighting described above. These decorative post-mounted fixtures are generally classified as noncutoff by the IESNA and are acceptable. The maximum lumens generated from each fixture shall not exceed 6,500 initial lumens, and each fixture must be equipped with a solid top to reduce the amount of light going into the sky. A BUG rating not exceeding B3, U3, G3 is acceptable for this application upon approval of the administrator.

(1) The adopted town standard is Streetworks model ACN-080-LED-E-U-33-2-4-2 with 7030 option for 3000K, or in Type V distribution (substitute 55 in place of 33), as manufactured by Eaton. Coordinate with the administrator if streetlights are provided through the local utility.

(b) All temporary emergency lighting needed by the sheriff or fire departments or other emergency services, as well as all vehicular luminaries, shall be exempt from the requirements of this article.

(c) All hazard warning luminaries required by federal regulatory agencies are exempt from the requirements of this article, except that all luminaries must be shown to be as close as possible to the federally required minimum lumen output requirement for the specific task.

(d) Motion detector security lights which are normally "off" and which are activated for less than five minutes occasionally when motion is detected are exempt from this article.

(e) In the case of flags, statues or other top-of-pole mounted objects, including neighborhood entrances, which cannot be illuminated with down-lighting, upward lighting may be used only in the form of two narrow-beam spotlights which confines the illumination to the object of interest.

(Ord. No. O-2000-01, § 2-3, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

Sec. 14-86. - Prohibitions.

(a) The operation of searchlights, lasers or other high-intensity beams is prohibited.

(b) The use of flashing, rotating or pulsating lighting devices is prohibited.

(Ord. No. O-2000-01, § 2-4, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

Sec. 14-87. - Temporary outdoor lighting.

(a) Any temporary outdoor lighting that conforms to the requirements of this article shall be allowed. Any temporary lighting as proposed through a temporary use permit shall be reviewed and approved by the planning board when

considering said permit. Any other nonconforming temporary outdoor lighting may be permitted by the town council after considering:

(1) The public and/or private benefits that will result from the temporary lighting;

(2) Any annoyance or safety problems that may result from the use of the temporary lighting; and

(3) The duration of the temporary nonconforming lighting.

(b) The applicant shall submit a detailed description of the proposed temporary nonconforming lighting request to the town council in accordance with all applicable submittal procedures, who shall consider the request at the next regularly scheduled meeting. Prior notice of the meeting shall be provided to the applicant. The town council shall render its decision on the temporary lighting request and notify the applicant in writing within two weeks from the date of its decision. A failure of the town council to act on a request shall constitute a denial of the request.

(Ord. No. O-2000-01, § 2-5, 8-14-2000; Ord. No. O-2017-16, 11-13-2017; Ord. No. O-2019-02, 5-13-2019)

Sec. 14-88. - Grandfather provision for preexisting luminaries.

(a) All existing lighting installed on or before the adoption of the ordinance from which this article is derived is "grandfathered" and therefore is acceptable as is and is not required to be changed.

(b) Luminaries that undergo a change in light source, wattage or fixture housing must be changed to come within compliance of this article.

(Ord. No. O-2000-01, art. 3, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

Sec. 14-89. - Authorization for installation of public area and roadway lighting.

(a) Installation of any new public area and roadway lighting fixtures other than for traffic control shall be specifically approved by the town council.

(b) The administrator or his designee shall evaluate and approve requests for additions, removals or other changes to street lighting and respond to the requestor within 30 days.

(Ord. No. O-2000-01, art. 4, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

Sec. 14-90. - Construction.

(a) *Submission contents.*

(1) Any applicant seeking lighting approval as required shall submit the information required by this subsection. Where applicable, this information shall be submitted as part of a final subdivision plat, as set forth in Article 8. The submission shall contain, but not be limited to:

a. Plans indicating the location on the premises, a point-by-point footcandle diagram and the type of illuminating devices, fixtures, lamps, supports, reflectors, and other devices.

b. Description of the illuminating devices, fixtures, lamps, supports, reflectors and other devices. This may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required).

c. Photometric data, such as that furnished by manufacturers, or similar, showing the angle of cutoff or light emissions.

(2) The electric utilities that serve the town, given the ongoing high volume of streetlights and other outdoor lighting provided by these utilities, are granted a waiver to the procedures described in the appropriate section of this Code or ordinance of the town regarding regulation of utility companies.

(3) The town will require each electric utility company to comply as follows:

a. A materials specification book for the electric utility fixtures, lamps, supports, reflectors, poles, raised foundations and other devices will be supplied by the electric utility to the town with a table of contents showing the identification codes and page numbers for the electric utility's equipment available to customers. All lighting equipment in this book must be approved by the town as well as all subsequent new lighting equipment that is proposed to be added by the electric utility. Each project will not require individual approval provided the approved equipment in the book is utilized.*Note:* The use of this book will significantly reduce the paperwork required from the utility lighting supplier.

b. A point-by-point footcandle array in a printout format indicating the location, aiming and type of fixtures shall be provided for each project.

c. If at some future date, if said project is found to be out of compliance, corrections will be made by the electric utility to allow the project to come under compliance at the utility's expense.

(b) *Additional submission.* The required plans, as herein called for, shall be sufficiently complete to enable the zoning administrator, or other such person assigned to administer the provisions of this article by the town council, to determine compliance with this article. The zoning administrator may require the applicant to submit additional information, on a case-by-case basis, to determine compliance with this article. Such information may include certified reports of tests conducted by a recognized testing laboratory.

(c) *Subdivision plat certification.* If any subdivision proposes to have installed street or other common or public area outdoor lighting, the final plat shall contain a statement certifying that the applicable provisions of this article will be adhered to.

(d) *Lamp or fixture substitution.* Should any outdoor light fixture, or the type of light source therein, be changed after the final plat approval, a change request must be submitted to the zoning administrator for approval, together with adequate information to assure compliance with this article, which must be received prior to substitution.

(e) *Technical assistance.* If the town requires technical assistance in determining whether plans and lighting equipment submitted for approval meet the requirements of this article, the cost for a lighting consultant's technical services will be paid to the town by the applicant requesting approval of the installation before final plat approval.

(Ord. No. O-2000-01, art. 5, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

Sec. 14-91. - Notification requirements.

The town zoning permit shall include a statement asking whether the planned project will include any outdoor lighting.

(Ord. No. O-2000-01, art. 6, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

Sec. 14-92. - Violations, legal actions and penalties.

(a) *Violation.* It shall be a civil infraction for any person to violate any of the provisions of this article. Each and every day during which the violation continues shall constitute a separate offense.

(b) *Violations and legal actions.* If, after investigation, the zoning administrator finds that any provision of this article is being violated, he shall give notice, by hand delivery or by certified mail, return-receipt requested, of such violation to the owner and/or to the occupant of such premises demanding that violation be abated within 30 days of the date of hand delivery or of the date of mailing of the notice. If the violation is not abated within said 30-day period, the zoning administrator may institute actions and proceedings, to enjoin, restrain or abate any violations of this article and to collect any penalties associated with such violations.

(c) *Penalties.* A violation of this article shall be punishable in accordance with this UDO.

(Ord. No. O-2000-01, art. 7, 8-14-2000; Ord. No. O-2019-02, 5-13-2019)

Secs. 14-93—14-100. - Reserved.

APPENDIX 5. ARCHITECTURAL STANDARDS.

Sec. 14-101. - Purpose and intent.

The purpose of establishing supplementary requirements for development is to ensure that the physical characteristics of proposed development are compatible when considered within the context of the surrounding areas and to preserve the unique visual character of the Town of Weddington. These requirements strike a balance between creativity and innovation on one hand while avoiding obtrusive, incongruous structures on the other. The Town of Weddington strongly encourages architectural styles that build upon and promote the existing historic character of the town and supports the view that inspiring, well-maintained, and harmonious development is in the best economic development interests of all residents and businesses.

(Ord. No. O-2009-10, 7-13-2009)

Sec. 14-102. - Applicability.

The standards described or referenced in this section shall apply to all nonresidential development, including renovations, remodelings, face lifts, repainting and additions to existing structures within the zoning jurisdiction of the Town of Weddington. All such projects that require a conditional use permit, a modification to a CUP, or conditional zoning shall be required to meet these standards.

(Ord. No. O-2009-10, 7-13-2009)

Sec. 14-103. - General compatibility requirement.

All development subject to this section shall be compatible with the character of the town by using a design that is complementary to existing town architectural styles, designs and forms. Compatibility shall be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns, and the use of building materials that have color, shades and textures similar to those existing in the immediate area of the proposed development.

(Ord. No. O-2009-10, 7-13-2009)

Sec. 14-104. - Modification of standards.

The zoning administrator, his designee, or the design review board may make modifications to the following standards upon the written request of the applicant if the standard(s) in question conflicts with other requirements by law, as long as the proposal is in compliance with the purpose and intent of these standards and general compatibility requirements given above. If the applicant and zoning administrator, his designee, or the design review board cannot come to an agreement the proposal shall be submitted to the planning board for recommendation at their next meeting and to the town council for final decision.

(Ord. No. O-2009-10, 7-13-2009)

Sec. 14-105. - Conflicting requirements.

Where these requirements conflict with each other or with any requirement of the zoning ordinance or subdivision regulations, the stricter, more visually compatible or more appropriate standards shall apply as determined by the zoning administrator. Any modifications necessary shall be made with the approval of the zoning administrator, his designee, or the design review board.

(Ord. No. O-2009-10, 7-13-2009)

Sec. 14-106. - Overall design and appearance standards.

(a) *Applicability.* All nonresidential development within the zoning jurisdiction of the Town of Weddington shall meet these overall design and appearance standards.

(b) *Basic building design.*

(1) *Scale:* Building design shall emphasize a human scale at ground level, at entryways and along street frontages through the creative use of such features as windows, doors, columns, canopies, arcades, awnings, decks and porches.

(2) *Avoiding monotony:* Monotony of design in single or multiple building projects shall be avoided by varying detail, form and siting to the maximum extent practicable, within the standards set forth in these requirements.

(3) *Unify individual storefronts:* If several storefronts are located in one building, the individual storefronts shall be unified in all exterior design elements, such as mass, window and door placement, color, materials and signage while, at the same time, varying the look and providing distinctiveness from storefront to storefront.

(c) *Architectural features.*

(1) *Roofs:* Roof lines shall be varied to reduce the scale of structures and add visual interest including gables, windows, dormers where possible.

(2) *Facades:* All facades, including front and side facades and all rear facades that are visible from any public roadway or sidewalk or from private property, that are greater than 100 feet in length, measured horizontally, shall be interrupted by recesses, projections, windows, awnings and/or arcades and shall utilize a repeating pattern of change in color, texture and material modules.

(3) All facades clearly visible from public streets or adjoining properties shall contribute to the scale of features of the building and feature characteristics similar to the front facade.

(4) *Entryways:* Each principal building on a site shall have one or more clearly defined, highly visible customer entrances featuring one or more of the following: Canopies or porticos, arcades, arches, wing walls and/or planters.

(5) *Materials:* Predominant exterior building materials shall be high quality materials, including brick, stucco, wood, stone and tinted/textured decorative concrete masonry units or other materials similar in appearance and durability. Under no circumstances shall unfinished concrete block be permitted.

(6) *Colors:* Colors used for exterior surfaces shall be harmonious with surrounding development and shall visually reflect the traditional concept of the town. Color shades shall be used to facilitate blending into the neighborhood. Facade colors shall be of low reflectance earth tone, muted, subtle or neutral colors. Building trim may feature brighter colors as an accent material. The use of high-intensity or metallic colors is not allowed except for accent purposes. The use of fluorescent, day glow or neon colors shall be prohibited as a predominate wall color. Variations in color schemes are encouraged in order to articulate entryways and public amenities so as to give greater recognition to these features. Color samples shall be provided to the staff at the time of site plan review and prior to any renovations, remodelings, facelifts and repainting, along with a description of how and where each color will be used. Colored renderings are encouraged, but shall not be a substitute for this requirement.

(d) *Parking lots.* To prevent huge expanses of asphalt separating nonresidential buildings from streets, parking will be separated into sections separated by landscaping and other features. Larger parking areas shall be split into sections on different sides of the building or enclosed in an interior space between buildings so as not to be easily visible from the street in order to emphasize the building and de-emphasize the parking lot.

(e) *Trash containment areas.* All trash containment devices, including compactors and dumpsters, shall be located and designed so as not to be visible from the view of nearby streets and properties. If the device is not visible from off the site, then it need not be screened. The type of screening used shall be determined based on the proposed location of the trash containment area, existing site conditions and the type and amount of existing and proposed vegetation on the site. Trash containment areas must be constructed of materials in similar color and nature to the primary structure.

(f) *Mechanical and utility equipment.* Mechanical and utility equipment shall be screened from view from nearby streets and properties in the same manner as trash containment areas. Ground mounted equipment shall be located in the rear

or side yard and screened. Such equipment located on the roof of the building shall also be made invisible from nearby streets and properties, through the use of setbacks from the edge of the roof or through the use of a screen exceeding the height of the equipment and using building materials and design which are compatible with those used for the exterior of the building. If the equipment is not visible from off the site, then it need not be screened. The type of screening used shall be determined based on the proposed location of the equipment, existing site conditions, and the type and amount of existing and proposed vegetation on the site.

(g) *Landscape protection.* Any damage to the existing landscaping, including street trees, by development, use or condition of private property shall be corrected by the property owner at the owner's expense to the satisfaction of the Town of Weddington prior to the issuance of a certificate of occupancy. Any damage not corrected by the owner shall be corrected by the town, the cost of which is to be billed to the owner, including town administrative costs.

(h) *Cultural resources.* Site development shall be considered in light of impacts on the cultural resources of the Town of Weddington. Cultural resources include historic properties, points of high elevation, significant sites and mature exceptional trees. Impacts on cultural resources shall be minimized by use of design, height, massing, scale, building orientation, site layout, visual and other development techniques to harmoniously integrate new development into the town while preserving and using cultural resources.

(i) *Lighting.* Lighting shall conform to the requirements of Appendix 4.

(Ord. No. O-2009-10, 7-13-2009)

Sec. 14-107. - Additional standards.

(a) *Applicability.* All nonresidential development shall meet these standards, in addition to those described in overall design and appearance standards.

(b) *Basic building design.*

(1) *Massing:* A single, large, dominant building mass shall be avoided. Where large structures are required, mass shall be broken up through the use of setbacks, projecting and recessed elements and similar design techniques.

(2) *Varying architectural styles:* In developments with multiple structures of varying architectural styles, buildings shall be compatible by such means as a pattern of architectural features, similar scale and proportions and consistent location of signage.

(3) *Additions and renovations:* Building additions and facade renovations shall be designed to reflect existing buildings in scale, materials, window treatment and color. A change in scale may require a transitional design element between the new development and existing buildings.

(4) *Infill development:* New infill development shall either be similar in size and height or, if larger, be articulated and subdivided into massing that is proportional to the mass and scale of other structures in the area.

(c) *Architectural features.*

(1) *Roofs:* Roof lines, type (such as flat, hip, mansard or gable), and materials shall be architecturally compatible with facade elements and the rest of the building and with other buildings on the same and adjoining area.

(2) *Fenestration:* Windows, entryways, awnings and arcades shall total at least 60 percent of the facade length abutting a public street. Windows and glass doors shall be clear, transparent glass. No window or door shall be horizontally separated by more than 15 feet from the nearest other window or door in the same facade visible from any public street.

(3) *Materials:* Building materials shall either be similar to the materials already being used in the neighborhood or, if dissimilar materials are being proposed, other characteristics such as scale and proportions, form, architectural detailing, color and texture, shall be utilized to ensure that enough similarity exists for the building to be compatible, despite the differences in materials.

(4) *Exterior wall cladding:* During renovations in existing buildings brick, stone or wood facades shall not be covered or replaced with artificial siding or panels, including decorative concrete masonry units. Fiber cement siding, such as the brand name "Hardiplank", may be used to replace wood clapboard siding.

(5) *Awnings and canopies:* When used, awnings and canopies shall be placed at the top of window or doorway openings and shall relate to the shape of the top of the window. Awnings shall be made of canvas, treated canvas or similar material. Metal or vinyl (or plastic) awnings are prohibited. No awning shall extend more than the width of the sidewalk or nine feet, whichever is less. Awnings must be self-supporting from the wall. No supports shall rest on or interfere with the use of pedestrian walkways or streets. In no case shall any awning extend beyond the street curb or interfere with street trees or public utilities.

(6) Canopies shall be of solid materials and complement the color of the building to which they are affixed or associated. In some cases canopies may have supports separate from the building, such as at gas stations, but such canopies must be setback from the property and right-of-way lines a minimum of the required setback of accessory buildings, as required in the zoning district where located, and must not interfere with street trees or public utilities.

(Ord. No. O-2009-10, 7-13-2009)

APPENDIX 6. EROSION CONTROL.

Sec. 58-601. - Title.

This article may be cited as the Weddington Soil Erosion and Sedimentation Control Ordinance.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-602. - Purpose.

This article is adopted for the purposes of:

(a) Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and

(b) Establishing procedures through which these purposes can be fulfilled.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-603. - Definitions.

As used in this article, unless the context clearly indicates otherwise, the following definitions apply:

Accelerated erosion means any increase over the rate of natural erosion as a result of land-disturbing activity.

Act means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it as amended from time to time.

Adequate erosion control measure, structure, or device means one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

Affiliate means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

Being conducted means a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.

Borrow means fill material which is required for on-site construction and is obtained from other locations.

Buffer zone means the strip of land adjacent to a lake or natural watercourse.

Coastal counties means the following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell and Washington.

Commission means the North Carolina Sedimentation Control Commission.

Completion of construction or development means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

Department means the North Carolina Department of Environmental Quality

Director means the director of the division of energy, mineral and land resources of the department of environment and natural resources.

Discharge point means that point at which stormwater runoff leaves a tract of land.

Energy dissipater means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

Erosion means the wearing away of land surfaces by the action of wind, water, gravity, or any combination thereof.

Ground cover means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

High quality water (HQW) zones means, for the coastal counties, areas within 575 feet of high quality waters; and for the remainder of the state, areas within one mile and draining to HQWs.

High quality waters means those classified as such in 15A NCAC 2B.0101(e) (5)—General Procedures, which is incorporated herein by reference to include further amendments pursuant to G.S. 150B-14(c).

Lake or natural watercourse means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

Land-disturbing activity means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Local government means any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the act.

Natural erosion means the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.

Parent means an affiliate that directly, or indirectly through one or more intermediaries, controls another person.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Person conducting land-disturbing activity means any person who may be held responsible for a violation unless expressly provided otherwise by this article, the act, or any order adopted pursuant to this article or the act.

Person responsible for the violation means:

(1) The developer or other person who has or holds himself out as having financial or operation control over the land-disturbing activity; or

(2) The landowner or person in possession or control of the land that has directly or indirectly allowed the land-disturbing activity, or benefited from it or failed to comply with a duty imposed by any provision of this article, the act, or any order adopted pursuant to this article or the act.

Phase of grading means one of two types of grading: rough or fine.

Plan means an erosion and sedimentation control plan

Sediment means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

Sedimentation means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

Siltation means sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

Storm drainage facilities means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

Stormwater runoff means the surface flow of water resulting from precipitation in any form and occurring immediately after rainfall or melting.

Subsidiary means an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.

Ten-year storm means a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Tract means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

Twenty-five year storm means a rainfall of an intensity expected to be equaled or exceeded on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Uncovered means the removal of ground cover from, on, or above the soil surface.

Undertaken means the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.

Velocity means the average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.

Waste means surplus materials resulting from on-site land-disturbing activities and being disposed of at other locations.

Working days means days exclusive of Saturday and Sunday, and federal and state holidays during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-604. - Scope and exclusions.

(a) *Geographical scope of regulated land-disturbing activity.* This article shall apply to land-disturbing activity within the territorial jurisdiction of the Town of Weddington, as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.

(b) *Exclusions from regulated land-disturbing activity.* Notwithstanding the general applicability of this article to all land-disturbing activity, this article shall not apply to the following types of land-disturbing activity:

(1) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

a. Forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts.

b. Dairy animals and dairy products.

c. Poultry and poultry products.

d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.

e. Bees and apiary products.

f. Fur producing animals.

g. Mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.

(2) An activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this article shall apply to such activity and any related land-disturbing activity on the tract.

(3) An activity for which a permit is required under the Mining Act of 1971, G.S. ch. 74. art. 7.

(4) A land-disturbing activity over which the state has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).

(5) An activity which is essential to protect human life during an emergency.

(6) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under section 404 of the Clean Water Act.

(7) Activities undertaken pursuant to natural resources conservation service standards to restore the wetlands functions of converted wetlands as defined in title 7 Code of Federal Regulations section 12.2

(c) *Plan approval requirement for land-disturbing activity.* No person shall undertake any land-disturbing activity subject to this ordinance without first obtaining a plan approval therefor from the Town of Weddington.

(d) *Protection of property.* Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

(e) *More restrictive rules shall apply.* Whenever conflicts exist between federal, state, or local laws, ordinance, or rules, the more restrictive provision shall apply.

(f) *Plan approval exceptions.* Notwithstanding the general requirement to obtain a plan approval prior to undertaking land-disturbing activity, a plan approval shall not be required for land-disturbing activity that does not exceed one acre in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-605. - Mandatory standards for land-disturbing activity.

No land-disturbing activity subject to the control of this article shall be undertaken except in accordance with the following mandatory standards:

(a) *Buffer zone.*

(1) *Standard buffer.* No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25 percent of the buffer zone nearest the land-disturbing activity.

a. *Projects on, over or under water.* This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

b. *Buffer measurement.* Unless otherwise provided, the width of a buffer zone is measured horizontally from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

(b) *Graded slopes and fills.* The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 21 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion. The angle for graded slopes and fills must be demonstrated to be stable. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.

(c) *Fill material.* Unless a permit from the department's division of waste management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding 12 inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.

(d) *Ground cover.* Whenever land-disturbing activity that will disturb more than one acre is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development. Provisions for a ground cover sufficient to restrain erosion shall be accomplished within 60 calendar days following completion of construction or development, whichever period is shorter.

(e) *Prior plan approval.* No person shall initiate any land-disturbing activity that will disturb more than one acre on a tract unless, 30 or more days prior to initiating the activity, a plan for the activity is filed with and approved

by the Town of Weddington. An erosion and sedimentation control plan may be filed less than 30 days prior to initiation of a land-disturbing activity if the plan is submitted under an approved express permit program. The land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved.

The Town of Weddington shall forward to the director of the division of water resources a copy of each plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

(f) The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-606. - Erosion and sedimentation control plans.

(a) *Plan submission.* A plan shall be prepared for all land-disturbing activities subject to this article whenever the proposed activity will disturb more than one acre on a tract. Three copies of the plan shall be filed with the Town of Weddington.

(b) *Financial responsibility and ownership.* Plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible, (2) the owner of the land, and (3) any registered agents. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the plan, the act, this article, or rules or orders adopted or issued pursuant to this article. Except as provided in subsections (b)(1) or (j) of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.

(1) If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.

(c) *Environmental policy act document.* Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (G.S. 113A-1, et seq.) shall be deemed incomplete until a complete environmental document is available for review. The Town of Weddington shall promptly notify the person submitting the plan that the 30-day time limit for review of the plan pursuant to this article shall not begin until a complete environmental document is available for review.

(d) *Content.* The plan required by this section shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this article. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the Town of Weddington on request.

(e) *Soil and water conservation district comments.* The district shall review the plan and submit any comments and recommendations to Town of Weddington within 20 days after the district received the plan, or within any shorter period of time as may be agreed upon by the district and the Town of Weddington. Failure of the district to submit its comments and recommendations within 20 days or within any agreed-upon shorter period of time shall not delay final action on the plan.

(f) *Timeline for decisions on plans.* The Town of Weddington will review each complete plan submitted and within 30 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a complete plan within 30 days of receipt shall be deemed approval. The Town of Weddington will review each revised plan submitted and within 15 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with

modifications, or disapproved. Failure to approve, approve with modifications, or disapprove a revised plan within 15 days of receipt shall be deemed approval.

(g) *Approval.* The Town of Weddington shall only approve a plan upon determining that it complies with all applicable state and local regulations for erosion and sedimentation control. Approval assumes the applicant's compliance with the federal and state water quality laws, regulations and rules. The Town of Weddington shall condition approval of plans upon the applicant's compliance with federal and state water quality laws, regulations and rules. The Town of Weddington may establish an expiration date, not to exceed three years, for plans approved under this article.

(h) *Disapproval for content.* The Town of Weddington may disapprove a plan or draft plan based on its content. A disapproval based upon a plan's content must specifically state in writing the reasons for disapproval.

(i) *Other disapprovals.* The Town of Weddington shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the environmental management commission to protect riparian buffers along surface waters. The Town of Weddington may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (j) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

(1) Is conducting or has conducted land-disturbing activity without an approved plan or has received notice of violation of a plan previously approved by the commission or a local government pursuant to this article and has not complied with the notice within the time specified in the notice.

(2) Has failed to pay a civil penalty assessed pursuant to this article or a local ordinance adopted pursuant to this article by the time the payment is due.

(3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this article.

(4) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to this article.

In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the Town of Weddington pursuant to subsection (i) of this section, the local government shall so notify the director of the division of energy, mineral, and land resources within ten days of the disapproval. The Town of Weddington shall advise the applicant or the proposed transferee and the director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of section 58-617(a), the applicant may appeal the local government's disapproval of the plan directly to the commission.

For purposes of this subsection, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

(j) The Town of Weddington administering an erosion and sedimentation control program may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.

(1) The Town of Weddington may transfer a plan if all of the following conditions are met:

a. The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.

b. The Town of Weddington finds all of the following:

1. The plan holder is one of the following:

i. A natural person who is deceased.

ii. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.

iii. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.

iv. A person who has sold the property on which the permitted activity is occurring or will occur.

2. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.

3. The successor-owner is the sole claimant of the right to engage in the permitted activity.

4. There will be no substantial change in the permitted activity.

(2) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

(3) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.

(4) Notwithstanding changes to law made after the original issuance of the plan, the Town of Weddington may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the Town of Weddington from requiring a revised plan pursuant to G.S. 113A-54.1(b).

(k) *Notice of activity initiation.* No person may initiate a land-disturbing activity before notifying the agency that issued the plan approval of the date that land-disturbing activity will begin.

(l) *Preconstruction conference.* When deemed necessary by the approving authority a preconstruction conference may be required.

(m) *Display of plan approval.* A plan approval issued under this article shall be prominently displayed until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A copy of the approved plan shall be kept on file at the job site.

(n) *Required revisions.* After approving a plan, if the Town of Weddington either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the Town of Weddington shall require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If following commencement of a land-disturbing activity pursuant to an approved plan, the Town of Weddington determines that the plan is inadequate to meet the requirements of this ordinance, the Town of Weddington, may require any revision of the plan that is necessary to comply with this article.

(o) *Amendment to a plan.* Applications for amendment of a plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Town of Weddington, the land-disturbing activity shall not proceed except in accordance with the plan as originally approved.

(p) *Failure to file a plan.* Any person engaged in land-disturbing activity who fails to file a plan in accordance with this article, or who conducts a land-disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this article.

(q) *Self-inspections.* The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1.

Where inspections are required by section 58-606(q) of this article and G.S. 113A-54.1(e), the following apply:

(1) The person who performs the inspection shall make a record of the site inspection by documenting the following items:

a. All of the erosion and sedimentation control measures, practices and devices, as called for in a construction sequence consistent with the approved erosion and sedimentation control plan, including, but not limited to, sedimentation control basins, sedimentation traps, sedimentation ponds, rock dams, temporary diversions, temporary slope drains, rock check dams, sediment fence or barriers, all forms of inlet protection, storm drainage facilities, energy dissipaters, and stabilization methods of open channels, have

initially been installed and do not significantly deviate (as defined in subsection (1)e. of this rule) from the locations, dimensions and relative elevations shown on the approved erosion and sedimentation plan. Such documentation shall be accomplished by initialing and dating each measure or practice shown on a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report that lists each measure, practice or device shown on the approved erosion and sedimentation control plan. This documentation is required only upon the initial installation of the erosion and sedimentation control measures, practices and devices as set forth by the approved erosion and sedimentation control plan or if the measures, practices and devices are modified after initial installation;

b. The completion of any phase of grading for all graded slopes and fills shown on the approved erosion and sedimentation control plan, specifically noting the location and condition of the graded slopes and fills. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;

c. The location of temporary or permanent ground cover, and that the installation of the ground cover does not significantly deviate (as defined in paragraph (e) of this subpart) from the approved erosion and sedimentation control plan. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;

d. That maintenance and repair requirements for all temporary and permanent erosion and sedimentation control measures, practices and devices have been performed. Such documentation shall be accomplished by completing, dating and signing an inspection report (the general stormwater permit monitoring form may be used to verify the maintenance and repair requirements); and

e. Any significant deviations from the approved erosion and sedimentation control plan, corrective actions required to correct the deviation and completion of the corrective actions. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report. A significant deviation means an omission, alteration or relocation of an erosion or sedimentation control measure that prevents the measure from performing as intended.

(2) The documentation, whether on a copy of the approved erosion and sedimentation control plan or an inspection report, shall include the name, address, affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.

(3) The inspection shall be performed during or after each of the following phases of a plan:

a. Installation of perimeter erosion and sediment control measures;

b. Clearing and grubbing of existing ground cover;

c. Completion of any phase of grading of slopes or fills that requires provision of temporary or permanent ground cover pursuant to G.S. 113A-57(2);

d. Completion of storm drainage facilities;

e. Completion of construction or development; and

f. Quarterly until the establishment of permanent ground cover sufficient to restrain erosion or until the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved and the agency that approved the plan has been notified. If the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved, the new owner or person in control shall conduct and document inspections quarterly until the establishment of permanent ground cover sufficient to restrain erosion.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-607. - Basic control objectives.

An erosion and sedimentation control plan may be disapproved if the plan fails to address the following control objectives:

(1) *Identify critical areas.* On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

(2) *Limit time of exposure.* All land-disturbing activities are to be planned and conducted to limit exposure to the shortest feasible time.

(3) *Limit exposed areas.* All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.

(4) *Control surface water.* Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.

(5) *Control sedimentation.* All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.

(6) *Manage stormwater runoff.* When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, a plan is to include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-608. - Design and performance standards.

Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the calculated maximum peak rate of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's "National Engineering Field Manual for Conservation Practices," or other acceptable calculation procedures.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-609. - Stormwater outlet protection.

(a) *Intent.* Stream banks and channels downstream from any land-disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land-disturbing activity.

(b) *Performance standard.* Persons shall conduct land-disturbing activity so that the post construction velocity of the ten-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

(1) The velocity established by the maximum permissible velocities table set out within this subsection; or

(2) The velocity of the ten-year storm runoff in the receiving watercourse prior to development.

If condition (1) or (2) of this paragraph cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by ten percent.

Maximum Permissible Velocities Table

The following is a table for maximum permissible velocity for stormwater discharges in feet per second (F.P.S.) and meters per second (M.P.S.):

Material	F.P.S.	M.P.S.

Fine sand (noncolloidal)	2.5	0.8
Sandy loam (noncolloidal)	2.5	0.8
Silt loam (noncolloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

Source—Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

(c) *Acceptable management measures.* Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The Town of Weddington recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives, while not exhaustive, are to:

(1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;

(2) Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections;

(3) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;

(4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining; and

(5) Upgrade or replace the receiving device structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.

(d) *Exceptions.* This rule shall not apply where it can be demonstrated to the Town of Weddington, that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-610. - Borrow and waste areas.

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the department's division of waste management shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-611. - Access and haul roads.

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-612. - Operations in lakes or natural watercourses.

Land-disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize unnecessary changes in the stream flow characteristics.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-613. - Responsibility for maintenance.

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this article, the act, or any order adopted pursuant to this article or the act. After site development, the landowner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-614. - Additional measures.

Whenever the Town of Weddington determines that significant erosion and sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-615. - Fees.

The Town of Weddington has established a fee schedule for the review and approval of plans and has considered the administrative and personnel costs incurred for reviewing the plans and for related compliance activities.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-616. - Plan appeals.

(a) Except as provided in section 58-617(b) of this article, the appeal of a disapproval or approval with modifications of a plan shall governed by the following provisions:

(1) The disapproval or modification of any proposed plan by the Town of Weddington, shall entitle the person submitting the plan to a public hearing if such person submits written demand for a hearing within 15 days after receipt of written notice of disapproval or modifications.

(2) A hearing held pursuant to this section shall be conducted by the Town of Weddington, stormwater board, within 30 days after the date of the appeal or request for a hearing.

(3) The stormwater board conducting the hearings shall make recommendations to the governing body of the Town of Weddington, within 30 days after the date of the hearing on any plan.

(4) The governing body of the Town of Weddington, will render its final decision on any plan within 30 days of receipt of the recommendations from the stormwater board conducting the hearing.

(5) If the Town of Weddington upholds the disapproval or modification of a proposed plan following the hearing, the person submitting the plan shall then be entitled to appeal the Town of Weddington's decision to the commission as provided in G.S. 113A-61(c) and 15A NCAC 4B .0118(d)

(b) In the event that a plan is disapproved pursuant to section 58-606(i) of this article, the applicant may appeal the Town of Weddington's disapproval of the plan directly to the commission.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-617. - Inspections and investigations.

(a) *Inspection.* Agents, officials, or other qualified persons authorized by the Town of Weddington will periodically inspect land-disturbing activities to ensure compliance with the act, this article, or rules or orders adopted or issued pursuant to this article, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each plan.

(b) *Willful resistance, delay or obstruction.* No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Town of Weddington while that person is inspecting or attempting to inspect a land-disturbing activity under this section.

(c) *Notice of violation.* If the Town of Weddington determines that a person engaged in land-disturbing activity has failed to comply with the act, this article, or rules, or orders adopted or issued pursuant to this article, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. 1A-1, Rule 4. The notice shall specify a date by which the person must comply with the act, or this article, or rules, or orders adopted pursuant to this article, and inform the person of the actions that need to be taken to comply with the act, this article, or rules or orders adopted pursuant to this article. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and this article.

(d) *Investigation.* The Town of Weddington shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.

(e) *Statements and reports.* The Town of Weddington shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-618. - Penalties.

(a) *Civil penalties.*

(1) *Civil penalty for a violation.* Any person who violates any of the provisions of the act, this article, or any rule or order adopted or issued pursuant to the act, this article, or who initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty amount that the Town of Weddington may assess

per violation is $5,000.00. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation, and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is $25,000.00.

(2) *Civil penalty assessment factors.* The governing body of the Town of Weddington shall determine the amount of the civil penalty based upon the following factors:

a. The degree and extent of harm caused by the violation,

b. The cost of rectifying the damage,

c. The amount of money the violator saved by non-compliance,

d. Whether the violation was committed willfully, and

e. The prior record of the violator in complying or failing to comply with the act, or any ordinance, rule, or order adopted or issued to the act by the commission or by a local government.

(3) *Notice of civil penalty assessment.* The governing body of the Town of Weddington shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4. A notice of assessment by the Town of Weddington shall direct the violator to either pay the assessment, contest the assessment within 30 days by filing a petition for hearing with the Town of Weddington in accordance with the procedures set forth in this UDO, or file a request with the sedimentation control commission for remission of the assessment within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to G.S. ch. 150B and a stipulation of the facts on which the assessment was based.

(4) *Final decision.* The final decision on contested assessments shall be made by the governing body of the Town of Weddington in accordance with this UDO.

(5) *Appeal of final decision.* Appeal from the final decision of the governing body of the Town of Weddington shall be to the superior court of the county where the violation occurred. Such appeals must be made within 30 days of the final decision of the governing body of the Town of Weddington

(6) *Collection.* If payment is not received within 60 days after it is due, the Town of Weddington may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of the county where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three years of the date the assessment was due. An assessment that is not contested, and remission is not requested, is due when the violator is served with a notice of assessment. An assessment that is contested, or remission is requested, is due at the conclusion of the administrative and judicial review of the assessment or request for remission.

(7) *Credit of civil penalties.* The clear proceeds of civil penalties collected by the Town of Weddington under this subsection shall be remitted to the civil penalty and forfeiture fund in accordance with G.S. 115C-457.2. Penalties collected by the Town of Weddington may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the computation of actual collection costs by each Town of Weddington for the prior fiscal year.

In any event, the cost percentage shall not exceed 20 percent of penalties collected.

(b) *Criminal penalties.* Any person who knowingly or willfully violates any provision of the act, this article, or any rule or order adopted or issued pursuant to the act or this article, or who knowingly or willfully initiates or continues a land-disturbing activity for which a plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a class 2 misdemeanor which may include a fine not to exceed $5,000.00 as provided in G.S. 113A-64.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-619. - Injunctive relief.

(a) *Violation of local program.* Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the Town of Weddington, or any term, condition, or provision of an approved plan, it may, either before or after the institution of any other action or proceeding authorized by this article, institute a civil action in the name of the Town of Weddington, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.

(b) *Abatement of violation.* Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this article.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-620. - Restoration after non-compliance.

The Town of Weddington may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57 (3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this article.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-621. - Severability.

If any section or section or sections of this article is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

(Ord. No. O-2019-05, 10-14-2019)

Sec. 58-622. - Effective date.

This article becomes effective on October 14, 2019.

(Ord. No. O-2019-05, 10-14-2019)

APPENDIX 7. FLOODPLAIN REGULATIONS.

FLOOD DAMAGE PREVENTION, DRAINAGE, STORMWATER MANAGEMENT AND WETLAND PROTECTION

Sec. 58-411. - Statutory authorization.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety and general welfare.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-412. - Findings of fact.

(a) The flood-prone areas within the jurisdiction of the Town of Weddington are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood-prone areas of uses vulnerable to floods or other hazards.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-413. - Statement of purpose.

It is the purpose of this article to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood-prone areas by provisions designed to:

(1) Restrict or prohibit uses that are dangerous to health, safety and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-414. - Objectives.

The objectives of this article are to:

(1) Protect human life, safety and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business losses and interruptions;

(5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood-prone areas;

(6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas; and

(7) Ensure that potential buyers are aware that property is in a special flood hazard area.

(Ord. No. O-2008-10, 10-13-2008)

Secs. 58-415—58-430. - Reserved.

DIVISION 2. - DEFINITIONS

Sec. 58-431. - [Defined terms.]

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application:

Accessory structure (appurtenant structure) means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

Addition (to an existing building) means an extension or increase in the floor area or height of a building or structure.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this article.

Area of shallow flooding means a designated zone AO, on a community's flood insurance rate map (FIRM), with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard see "Special flood hazard area (SFHA)".

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (also known as the 100-year flood).

Base flood elevation (BFE) means a determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a "special flood hazard area", it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "freeboard", establishes the "regulatory flood protection elevation".

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Building see "Structure".

Chemical storage facility means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Disposal means, as defined in G.S. 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Drainage easement means an area of land dedicated for the purpose of conveying stormwater runoff by means of an open channel or drainage pipe.

Elevated building means a nonbasement building which has its lowest elevated floor raised aboveground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment means the advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing manufactured home park or *manufactured home subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

FEMA means Federal Emergency Management Agency, or its designated authority.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance means the insurance coverage provided under the national flood insurance program.

Flood insurance rate map (FIRM) means an official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Flood insurance study (FIS) means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The flood insurance study report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

Flood-prone area see "Floodplain".

Flood zone means a geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

Floodplain means any land area susceptible to being inundated by water from any source.

Floodplain administrator is the individual appointed to administer and enforce the floodplain management regulations.

Floodplain development permit means any type of permit that is required in conformance with the provisions of this article, prior to the commencement of any development activity.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations means this article and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Freeboard means the height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater that the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The base flood elevation (BFE) plus the freeboard establishes the "regulatory flood protection elevation". Freeboard also means the vertical distance between the water level and the top of a structure, such as a dam, that impounds or restrains water.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Hazardous waste management facility means, as defined in G.S. 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Highest adjacent grade (HAG) means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a local inventory of historic landmarks in communities with a "certified local government (CLG) program"; or

(4) Certified as contributing to the historical significance of a historic district designated by a community with a "certified local government (CLG) program".

Certified local government (CLG) programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the state historic preservation officer as having met the requirements of the National Historic Preservation Act of 1966, as amended in 1980.

Lowest adjacent grade (LAG) means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (actual cash value); or adjusted tax assessed values.

Mean sea level means, for purposes of this article, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

New construction means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

Nonencroachment area means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the flood insurance study report.

Post-FIRM means construction or other development for which the "start of construction" occurred on or after the effective date of the initial flood insurance rate map.

Pre-FIRM means construction or other development for which the "start of construction" occurred before the effective date of the initial flood insurance rate map.

Principally aboveground means that at least 51 percent of the actual cash value of the structure is aboveground.

Public safety and/or *nuisance* means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Public water supply system means any water supply system furnishing potable water to ten or more dwelling units or businesses or any combination thereof.

Recreational vehicle (RV) means a vehicle, which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Reference level is the top of the lowest floor for structures within special flood hazard areas designated as zones A1-A30, AE, A, A99 or AO.

Regulatory flood protection elevation means the "base flood elevation" plus the "freeboard". In "special flood hazard areas" where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard. In "special flood hazard areas" where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

Remedy a violation means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Runoff means precipitation from rain or snowfall, which flows over the ground.

Salvage yard means any nonresidential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to, vehicles, appliances and related machinery.

Solid waste disposal facility means any facility involved in the disposal of solid waste, as defined in G.S. 130A-290(a)(35).

Solid waste disposal site means, as defined in G.S. 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special flood hazard area (SFHA) means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year, as determined in section 58-452 of this article.

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

Substantial damage means damage of any origin sustained by a structure during any one-year period, whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement". Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Substantial improvement means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance is a grant of relief from the requirements of this article.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in divisions 4 and 5 is presumed to be in violation until such time as that documentation is provided.

Water surface elevation (WSE) means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

(Ord. No. O-2008-10, 10-13-2008)

Secs. 58-432—58-450. - Reserved.

DIVISION 3. - GENERAL PROVISIONS

Sec. 58-451. - Lands to which this article applies.

This article shall apply to all special flood hazard areas within the jurisdiction, including extra-territorial jurisdictions (ETJs), of the Town of Weddington. Division 6 of this article entitled, "Drainage, Stormwater Management and Wetland Protection", shall apply to all lands within this jurisdiction, including extra-territorial jurisdictions (ETJ's), of the Town of Weddington.

(Ord. No. O-2008-10, 10-13-2008; Ord. No. O-2010-06, 4-12-2010)

Sec. 58-452. - Basis for establishing the special flood hazard areas.

The special flood hazard areas are those identified under the cooperating technical state (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Union County and incorporated areas, dated February 19, 2014, which are adopted by reference and declared to be a part of the ordinance from which this article derives.

The initial flood insurance rate maps are as follows for the jurisdictional areas at the initial date: Union County Unincorporated Area, dated July 18, 1983.

(Ord. No. O-2008-10, 10-13-2008; Ord. No. O-2014-01, 1-13-2014)

Sec. 58-453. - Establishment of floodplain development permit.

A floodplain development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of section 58-452 of this article.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-454. - Compliance.

No structure or land shall hereafter be located, extended, converted, altered or developed in any way without full compliance with the terms of this article and other applicable regulations.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-455. - Abrogation and greater restrictions.

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-456. - Interpretation.

In the interpretation and application of this article, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit, nor repeal any other powers granted under state statutes.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-457. - Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by manmade or natural causes. This article does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the Town of Weddington or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-458. - Penalties for violation.

Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $500.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Weddington from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. O-2008-10, 10-13-2008)

Secs. 58-459—58-480. - Reserved.

DIVISION 4. - ADMINISTRATION

Sec. 58-481. - Designation of floodplain administrator.

The town planner, or his/her designee, hereinafter referred to as the "floodplain administrator", is hereby appointed to administer and implement the provisions of this article.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-482. - Floodplain development application, permit and certification requirements.

(a) *Application requirements.* Application for a floodplain development permit shall be made to the floodplain administrator prior to any development activities located within special flood hazard areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

(1) A plot plan drawn to scale which shall include, but shall not be limited to the following specific details of the proposed floodplain development:

a. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

b. The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in section 58-452, or a statement that the entire lot is within the special flood hazard area;

c. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in section 58-452;

d. The boundary of the floodway(s) or nonencroachment area(s) as determined in section 58-452;

e. The base flood elevation (BFE) where provided as set forth in section 58-452; section 58-483; or section 58-514;

f. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

g. The certification of the plot plan by a registered land surveyor or professional engineer.

(2) Proposed elevation, and method thereof, of all development within a special flood hazard area including, but not limited to:

a. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

b. Elevation in relation to mean sea level to which any nonresidential structure in zones AE, A or AO will be floodproofed; and

c. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

(3) If floodproofing, a floodproofing certificate (FEMA Form 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

(4) A foundation plan, drawn to scale,, which shall include details of the proposed foundation system to ensure all provisions of this article are met. These details include, but are not limited to:

a. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

b. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with subsection 58-512(4)c., when solid foundation perimeter walls are used in zones A, AO, AE, and A1-30.

(5) Usage details of any enclosed areas below the lowest floor.

(6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(7) Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.

(8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of subsections 58-512(6) and (7) of this article are met.

(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(b) *Permit requirements.* The floodplain development permit shall include, but not be limited to:

(1) A description of the development to be permitted under the floodplain development permit.

(2) The special flood hazard area determination for the proposed development in accordance with available data specified in section 58-452.

(3) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(4) The regulatory flood protection elevation required for the protection of all public utilities.

(5) All certification submittal requirements with timelines.

(6) A statement that no fill material or other development shall encroach into the floodway or nonencroachment area of any watercourse, as applicable.

(7) The flood openings requirements, if in zones A, AO, AE or A1-30.

(8) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).

(c) *Certification requirements.*

(1) Elevation certificates.

a. An elevation certificate (FEMA Form 086-0-33 (7/12)) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

b. A final as-built elevation certificate (FEMA Form 086-0-33 (7/12)) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(2) Floodproofing certificate. If nonresidential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA Form 086-0-33 (7/12)), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(3) If a manufactured home is placed within zones A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of subsection 58-512(3)b.

(4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing

the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(5) Certification exemptions. The following structures, if located within zones A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in subsections (c)(1) and (2) of this section:

a. Recreational vehicles meeting requirements of subsection 58-512(6)a.;

b. Temporary structures meeting requirements of subsection 58-512(7); and

c. Accessory structures less than 150 square feet meeting requirements of subsection 58-512(8).

(Ord. No. O-2008-10, 10-13-2008; Ord. No. O-2014-01, 1-13-2014)

Sec. 58-483. - Duties and responsibilities of the floodplain administrator.

The floodplain administrator shall perform, but not be limited to the following duties:

(1) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this article have been satisfied.

(2) Review all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received.

(3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

(5) Prevent encroachments into floodways and nonencroachment areas unless the certification and flood hazard reduction provisions of section 58-516 are met.

(6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of subsection 58-482(c).

(7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of subsection 58-482(c).

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of subsection 58-482(c).

(9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of subsection 58-482(c) and subsection 58-512(2).

(10) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or nonencroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(11) When base flood elevation (BFE) data has not been provided in accordance with the provisions of section 58-452, obtain, review, and reasonably utilize any BFE data, along with floodway data or nonencroachment area data available from a federal, state, or other source, including data developed pursuant to subsection 58-514(2)b., in order to administer the provisions of this article.

(12) When base flood elevation (BFE) data is provided but no floodway or nonencroachment area data has been provided in accordance with the provisions of section 58-452, obtain, review, and reasonably utilize any floodway data or nonencroachment area data available from a federal, state, or other source in order to administer the provisions of this article.

(13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the base flood elevation (BFE), advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

(14) Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(17) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(18) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(19) Follow through with corrective procedures of section 58-484.

(20) Review, provide input, and make recommendations for variance requests.

(21) Maintain a current map repository to include, but not limited to the FIS report, FIRM and other official flood maps and studies adopted in accordance with the provisions of section 58-452 of this article, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.

(22) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-Fs) and letters of map revision (LOMRs).

(Ord. No. O-2008-10, 10-13-2008; Ord. No. O-2014-01, 1-13-2014)

Sec. 58-484. - Corrective procedures.

(a) *Violations to be corrected:* When the floodplain administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(b) *Actions in event of failure to take corrective action:* If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(1) That the building or property is in violation of the floodplain management regulations;

(2) That a hearing will be held before the floodplain administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(c) *Order to take corrective action:* If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the flood damage prevention ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the floodplain administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(d) *Appeal:* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(e) *Failure to comply with order:* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-485. - Variance procedures.

(a) The zoning board of adjustment as established by the Town of Weddington, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this article.

(b) Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in G.S. chapter 7A.

(c) Variances may be issued for:

(1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

(2) Functionally dependent facilities if determined to meet the definition as stated in section 58-431 of this article, provided provisions of subsections 58-485(i)(2), (3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

(3) Any other type of development, provided it meets the requirements of this section.

(d) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location as defined under section 58-431 of this article as a functionally dependent facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(e) A written report addressing each of the above factors shall be submitted with the application for a variance.

(f) Upon consideration of the factors listed above and the purposes of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this article.

(g) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to $25.00 per $100.00 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(h) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(i) Conditions for variances:

(1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(2) Variances shall not be issued within any designated floodway or nonencroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(Ord. No. O-2008-10, 10-13-2008)

DIVISION 5. - PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 58-511. - General standards.

In all special flood hazard areas the following provisions are required:

(1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this article, shall meet the requirements of "new construction" as contained in this article.

(9) Nothing in this article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of the ordinance from which this article derived and located totally or partially within the floodway, nonencroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, nonencroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this article.

(10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted.

(11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972; 33 U.S.C. 1334.

(15) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation (BFE) shall apply.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-512. - Specific standards for lots recorded prior to January 10, 2000.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in section 58-452, or section 58-514, the following provisions, in addition to the provisions of section 58-511, are required:

(1) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in section 58-431 of this article.

(2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in section 58-431 of this article. Structures located in A, AE, AO, and A1-30 zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO zones, the floodproofing elevation shall be in accordance with subsection 58-517(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in subsection 58-482(c), along with the operational plan and the inspection and maintenance plan.

(3) *Manufactured homes.*

a. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in section 58-431 of this article.

b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

c. All enclosures or skirting below the lowest floor shall meet the requirements of subsection 58-512(4).

d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood-prone areas. This plan shall be filed with and approved by the floodplain administrator and the local emergency management coordinator.

(4) *Elevated buildings.* Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

a. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

b. Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation; and

c. Shall include, in zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

1. A minimum of two flood openings on different sides of each enclosed area subject to flooding;

2. The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

3. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

4. The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;

5. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

6. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) *Additions/improvements.*

a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.

2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

b. Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(6) *Recreational vehicles.* Recreational vehicles shall either:

a. Be on-site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

b. Meet all the requirements for new construction.

(7) *Temporary nonresidential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval:

a. A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

b. The name, address, and phone number of the individual responsible for the removal of the temporary structure;

c. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

d. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

e. Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(8) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

b. Accessory structures shall not be temperature-controlled;

c. Accessory structures shall be designed to have low flood damage potential;

d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

e. Accessory structures shall be firmly anchored in accordance with the provisions of subsection 58-511(1); "Anchoring of any accessory buildings may be done by bolting the building to a concrete slab or by over-the-top ties. When bolting to a concrete slab, one-half inch bolts six feet on center with a minimum of two per side, shall be required. If over-the-top ties are used, a minimum of two ties with a force adequate to secure the building is required."

f. All service facilities such as electrical shall be installed in accordance with the provisions of subsection 58-511(4); and

g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of subsection 58-512(4)c.

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above, does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with subsection 58-482(c).

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-513. - Specific standards for lots recorded on or after January 10, 2000.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in section 58-452, or section 58-514, the following provisions, in addition to the provisions of section 58-511, are required:

(1) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation and shall be located outside the limits of the SFHA, as defined in section 58-431 of this article.

(2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory

flood protection elevation and shall be located outside the limits of the SFHA, as defined in section 58-431 of this article.

(3) *Manufactured homes.* New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation and shall be located outside the limits of the SFHA, as defined in section 58-431 of this article.

(4) *Recreational vehicles.* Recreational vehicles shall either:

a. Be on-site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

b. Meet all the requirements for new construction.

(5) *Temporary nonresidential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval:

a. A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

b. The name, address, and phone number of the individual responsible for the removal of the temporary structure;

c. The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

d. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

e. Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(6) *Accessory structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

b. Accessory structures shall not be temperature-controlled;

c. Accessory structures shall be designed to have low flood damage potential;

d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

e. Accessory structures shall be firmly anchored in accordance with the provisions of subsection 58-511(1); "Anchoring of any accessory buildings may be done by bolting the building to a concrete slab or by over-the-top ties. When bolting to a concrete slab, one-half inch bolts six feet on center with a minimum of two per side, shall be required. If over-the-top ties are used, a minimum of two ties with a force adequate to secure the building is required."

f. All service facilities such as electrical shall be installed in accordance with the provisions of subsection 58-511(4); and

g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of subsection 58-512(4)c.

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with subsection 58-482(c).

(7) *Recordation of lots within SFHA.* Prior to recordation of lots within the SFHA, as defined in section 58-431 of this article, the following provisions shall be met:

a. *Lots wholly located within the SFHA:* No proposed residential building lot that is wholly located within the SFHA shall be approved.

b. *Lots partially located within the SFHA:*

1. No proposed residential building lot that is partially located within the SFHA shall be approved unless there is established on the lot plan a contour line representing the regulatory flood protection elevation, as defined in section 58-431 of this article. All buildings or structures designed or intended for use for residential purposes shall be located on such a lot so that the lowest floor, as defined in section 58-431 of this article, shall not be below the regulatory flood protection elevation.

2. Where only a portion of a proposed lot is located within the SFHA, such lot may be approved only if there will be available for building a usable lot area of not less than 5,000 square feet. The usable 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 SFHA as shown on the flood insurance rate map (FIRM).

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-514. - Standards for floodplains without established base flood elevations.

Within the special flood hazard areas designated as approximate zone A and established in section 58-452, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of section 58-511, shall apply:

(1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

a. When base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this article and shall be elevated or floodproofed in accordance with standards in division 5, sections 58-511 and 58-512.

b. When floodway or nonencroachment data is available from a federal, state, or other source, all new construction and substantial improvements within floodway and nonencroachment areas shall also comply with the requirements of division 5, sections 58-512 and 58-516.

c. All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with section 58-452 and utilized in implementing this article.

d. When base flood elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in section 58-431. All other applicable provisions of section 58-512 shall also apply.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-515. - Standards for riverine floodplains with base flood elevations but without established floodways or nonencroachment areas.

Along rivers and streams where base flood elevation (BFE) data is provided by FEMA or is available from another source, but neither floodway, nor nonencroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(1) Standards of division 5, sections 58-511 and 58-512; and

(2) Until a regulatory floodway or nonencroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-516. - Floodways and nonencroachment areas.

Areas designated as floodways or nonencroachment areas are located within the special flood hazard areas established in section 58-452. The floodways and nonencroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in division 5, sections 58-511 and 58-512, shall apply to all development within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

a. It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit; or

b. A conditional letter of map revision (CLOMR) has been approved by the Town of Weddington and FEMA. A letter of map revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(2) If subsection (1) above, is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.

(3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

a. The anchoring and the elevation standards of subsection 58-512(3); and

b. The no encroachment standard of subsection (1), above.

(4) Development which causes a rise of greater than 0.00' in the FEMA base flood elevation and impacts an existing habitable building will not be allowed.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-517. - Standards for areas of shallow flooding (zone AO).

Located within the special flood hazard areas established in section 58-452, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to division 5, sections 58-511 and 58-512, all new construction and substantial improvements shall meet the following requirements:

(1) The reference level shall be elevated at least as high as the depth number specified on the flood insurance rate map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least four feet above the highest adjacent grade if no depth number is specified.

(2) Nonresidential structures may, in lieu of elevation, be floodproofed to the same level as required in subsection 58-517(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with subsection 58-482(c) and subsection 58-512(2).

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-518. - Special provisions for subdivisions.

(a) An applicant for a major development permit authorizing a major subdivision, and an applicant for minor subdivision final plat approval, shall be responsible for compliance with the use and construction restrictions contained in division 5 sections 58-511 through 58-517 if any portion of the land to be subdivided lies within a floodway or SFHA, as defined in section 58-431 of this article.

(b) Final plat approval for any subdivision containing land that lies within a floodway or SFHA may not be given unless the plat shows the boundary of the floodway and SFHA and contains in clearly discernible print the following statement: "Use of land within a floodway or special flood hazard area (SFHA) is substantially restricted by the Town of Weddington Zoning Ordinance".

(c) A major development permit for a major subdivision and final plat approval for any subdivision may not be given if:

(1) The land to be subdivided lies within a zone where residential uses are permissible and it reasonably appears that the subdivision is designed to create residential building lots;

(2) Any portion of one or more of the proposed lots lies within a floodway or SFHA; and

(3) It reasonably appears that one or more lots described in subsections (c)(1) and (c)(2) of this section could not practicably be used as a residential building site because of the restrictions set forth in this article.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-519. - Location of boundaries of special flood hazard areas (sfha) and floodway districts.

As used in this article, the terms SFHA and floodway refer in the first instance to certain areas whose boundaries are determined and can be located on the ground by reference to the specific fluvial characteristics set forth in the definitions of these terms. These terms also refer to overlay zoning districts SFHAs shown on the maps referenced in this article, which boundaries are intended to correspond to the actual, physical location of floodways and SFHAs. These overlay districts thus differ from other zoning districts, whose boundaries are established solely according to planning or policy, rather than physical, criteria. Therefore, the administrator is authorized to make necessary interpretations as to the exact location of the boundaries of floodways or SFHAs if there appears to be a conflict between a mapped boundary and actual field conditions.

(Ord. No. O-2008-10, 10-13-2008)

Sec. 58-520. - Setbacks from streams outside designated special flood hazard areas (SFHA).

(a) Flood limits of any stream shown on the national flood insurance program flood insurance rate map (FIRM) designated as a zone A or zone AE flood hazard area shall have those limits drawn on the plat to proper scale and certified by a duly licensed professional engineer or registered land surveyor. If the stream is shown on the FIRM with flood elevations, the flooding limits are to be drawn based on the ground survey. If detailed flood elevations do not exist, the applicant may obtain a letter of map amendment (LOMA) or letter of map revision (LOMR) from the Federal Emergency Management Agency (FEMA) for use as a basis of the regulatory flood protection elevation. For lots outside of a detailed study area (zone A) as shown on the FIRM for which no LOMA or LOMR exists, and where the proposed subdivision, manufactured home park or other development is greater than five acres or has more than 50 lots/manufactured home sites, the base flood elevation data shall be calculated. In all cases, the regulatory flood protection elevation shall be set as described in this article.

For all other lots located outside of a detailed study area (zone A) as shown on the FIRM for which no LOMA or LOMR exists, a regulatory flood protection elevation shall be established as two feet above the highest adjacent drainage easement grade.

In all cases where lots are upstream from street crossings, the regulatory flood protection elevation shall be established as described in this subsection or set two feet above the low elevation of the street, whichever is greater, and shown on the plat.

(b) Drainage easements shall be established and recorded for all lots containing storm drainage pipes or channels. No structure, with the exception of a fence, shall be erected across or within a drainage easement. Fences are allowed within drainage easements provided the fence does not restrict or obstruct the natural flow of water in an open channel. The following table shall be used as a minimum for drainage easements for all open channels and streams:

(1) Less than 25 acres: 20 feet.

(2) Less than 50 acres: 30 feet.

(3) Less than 75 acres: 40 feet.

(4) Greater than 75 acres: 50 feet.

In addition, all drainage pipes shall have a minimum drainage easement width of 20 feet. The strip of land in the drainage easement to a stream or river shall be retained in its natural vegetative state unless prior approval from the zoning administrator is obtained. The values provided in subsections (b)(1) through (b)(4) of this section are intended for a guide and as a minimum and is not intended to be used in place of accepted engineering practices.

(c) Each plat containing drainage easements for watershed areas exceeding 50 acres will require the following engineering certification:

I _____, a duly registered Professional Engineer, licensed in the State of North Carolina, do hereby certify that the drainage easements shown on this plat are sufficient to carry the 100-year storm runoff within the easement limits as shown.
N.C. P.E. #_____ Date_____

_____
(Signature and Seal)

(Ord. No. O-2008-10, 10-13-2008)

Secs. 58-521—58-540. - Reserved.

APPENDIX 8. STORMWATER.

Sec. 58-541. - Natural drainage system utilized to extent feasible.

(a) To the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing manmade drainage ways shall remain undisturbed.

(b) To the extent practicable, lot boundaries shall be made to coincide with natural and pre-existing manmade drainage ways within subdivisions to eliminate the creation of lots that could only be built upon by altering such drainage ways.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-542. - Developments must drain properly.

(a) All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:

(1) The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or stormwater runoff control plan; or

(2) The retention is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless such retention presents a danger to health or safety.

(b) No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from high adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties.

(c) No surface water may be channeled or directed into a sanitary sewer.

(d) Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or adjacent streets.

(e) Private roads and access ways within non-subdivided developments shall utilize curb and gutter and storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner, or if other sufficient reasons exist to require such construction.

(f) Construction specifications for drainage swales, curbs and gutters, and storm drains shall be reviewed and approved by the zoning administrator with the assistance of the town's engineering consultant, as necessary. All systems shall be designed in accordance with the Town's Stormwater Manual, as adopted, for a fully developed basin upstream based on the adopted town land use plan. Design of such systems shall be certified by a registered North Carolina professional engineer as an integral part of any permit application.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-543. - General standards for stormwater management.

(a) The Town of Weddington hereby adopts and incorporates herein the provisions contained in the Charlotte-Mecklenburg Stormwater Design Manual, dated January 1, 2014, (as amended) (hereinafter referenced as the "Stormwater Manual"), with the following exceptions:

(1) Necessary deviations may be necessary to accommodate soil types found in Union County and the Town of Weddington.

(2) Rainfall data for stormwater management design calculations shall be the most current available and shall be obtained from the National Oceanic and Atmospheric (NOAA) Precipitation Frequency Data Server website.

(3) When discrepancies are found between the Stormwater Manual and the Town of Weddington zoning or subdivision regulations, the stricter regulation shall apply.

(4) The town engineer, may approve other deviations from the Stormwater Manual in unique cases where hardship is demonstrated. Any deviation is also subject to approval from the town council.

(b) All developments shall be constructed and maintained so that properties are not unreasonably burdened with stormwater runoff as a result of such developments. More specifically:

(1) All nonresidential development and all major residential development creating more than 20,000 square feet of new impervious area shall provide stormwater detention to control the peak stormwater runoff from the 2, 10, 25, 50 and 100 year, 24-hour storm events to pre-development rates. Stormwater volume control shall also be provided for the 1-year, 24-hour storm. Design of facilities shall be consistent with the Stormwater Manual except as stated herein.

(2) All developments with impervious area existing on or before November 13, 2014 shall provide detention only for any newly created impervious area.

(3) Minor residential subdivisions and individual single-family residences are exempt from requirements of this section.

(4) Stormwater management facilities shall not be located within 20 feet of any property lines.

(5) A registered North Carolina professional engineer shall certify documents demonstrating that construction of the project or subdivision will not increase the rate of runoff from the site nor cause any adverse impacts on downstream facilities or property.

(6) Where stormwater management facilities are proposed to be constructed, the owners, heirs, assigns or successors of the land, including any homeowners associations, will agree to perpetual maintenance of the facility and will release and hold harmless the Town of Weddington from any liability, claims, demands, attorney's fees, and costs or judgments arising from said facility. At a minimum, the facility will be inspected by a registered North Carolina professional engineer on a yearly basis and the annual inspection report submitted by the owner to the zoning administrator for purposes of compliance.

(7) An evaluation of any dam that is part of a stormwater management facility shall be made by the designer, in accordance with the Dam Safety Law of 1967, and submitted to the dam safety engineer for review, if required.

(8) No certificate of compliance or release of performance bond funds shall be issued for any development until a registered land surveyor has surveyed the as-built storm drainage and stormwater management facilities and the revised calculations have been submitted to and approved by the Town of Weddington. The revised calculations must be sealed by a registered North Carolina professional engineer. In addition, the town shall not grant final plat approval unless the town engineer has approved the plans, and the town has approved the as-built detention plans and/or a performance bond has been secured.

(9) A permanent drainage easement that encompasses the facility shall be shown on a recorded plat, along with an access easement from the facility to a public right-of-way. This easement will be described by metes and bounds on the plat.

(10) There will be a note placed on the recorded plat that clearly describes who is responsible for maintenance of the stormwater management facilities, pipes, and/or channels located within the permanent facility.

(11) Required drainage easements for streams shall be provided as described in zoning ordinance section 58-520, "Setbacks from streams".

(12) Applicants proposing new development within the downtown overlay district may propose an alternative stormwater management plan, provided the proposal includes a regional stormwater management pond that serves a development area of nine acres or more. At a minimum, the proposed plan must detain peak stormwater runoff for the 2-year, 10-year, and 25-year, 6-hour storms, and provide 0.5 feet of freeboard during the 50 and 100-year storm events. The regional stormwater pond must be approved by the town council in accordance with the conditional zoning approval process.

(Ord. No. O-2014-14, 11-10-2014; Ord. No. O-2015-08, 6-8-2015)

Sec. 58-543.1. - Requirements for stormwater management plan approval.

(a) *Stormwater management plan required for all developments.*

(1) No conditional use, vested rights, rezoning, or zoning application for nonresidential uses or preliminary subdivision plat for residential or nonresidential uses will be considered as complete unless it includes a

stormwater management plan detailing in concept how runoff resulting from the development will be controlled or managed. Preliminary informational meetings with the town zoning administrator or the planning board may be allowed without a complete stormwater management concept plan.

(2) No zoning permit or final plat approval shall be issued until a satisfactory final stormwater management plan has been reviewed and approved by the town upon determination that the plan is consistent with the requirements of this division.

(3) All costs for the town's engineering review of the stormwater management concept plans and final plans shall be borne by the owner/developer.

(b) *Stormwater management concept plan requirements.* A stormwater management concept plan shall be required with all permit applications and will include sufficient information to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site on water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The information provided shall meet the design requirements of the Stormwater Manual. The following items are required to be submitted for review of the stormwater management concept plan:

(1) Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys; boundaries of existing predominant vegetation and proposed limits of clearing and grading; proposed open space area; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

(2) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers, and other setbacks. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

(3) A written or graphic concept plan of the proposed post-construction stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of proposed open space areas; location of all floodplain/floodway limits; relationship of the site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

(4) Preliminary selection and rationale for any structural stormwater management practices along with sufficient engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with the Town of Weddington Stormwater Management Ordinance and the specifications of the Stormwater Manual.

(5) A note acknowledging responsibility for the operation and maintenance of any stormwater management facility, and that such obligation shall be disclosed to future owners.

(c) *Final stormwater management plan requirements.* After review of the stormwater management concept plan and modifications to that plan as deemed necessary by the town, a final stormwater management plan shall be submitted for approval. The final stormwater management plan shall detail how post-construction runoff will be controlled, managed and maintained in perpetuity, and how the proposed project will meet the requirements of this division. All such plans shall conform to the design requirements of the Stormwater Manual and shall be prepared by a North Carolina licensed professional engineer. The plan submittal shall include all of the information required in the submittal checklist established by the zoning administrator.

(d) *Performance bond/security.*

(1) The Town of Weddington may, at its discretion, require the submittal of a performance security or bond prior to issuance of a permit in order to insure that the stormwater management facilities are installed by the permit holder as required by the approved stormwater management plan. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management practices approved under the permit, plus 50 percent. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.

(2) The installation performance security shall be released in full only upon submission of "as built plans" and written certification by a registered North Carolina professional engineer that the detention facility has been installed in accordance with the approved plan and other applicable provisions of this division.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-543.2. - Maintenance of stormwater facilities.

(a) *General standards for maintenance.* The owner, its successors and assigns, including any homeowners association, of a stormwater management facility installed pursuant to this division shall maintain and operate the practice so as to preserve and continue its function in controlling stormwater runoff at the degree or amount of function for which the facility was designed.

(b) *Operation and maintenance agreement.*

(1) Prior to the conveyance or transfer of any lot or building site to be served by a stormwater control facility pursuant to this division, and prior to issuance of any permit for development requiring a stormwater control facility pursuant to this division, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the facility. Until the transference of all property, sites or lots served by facility, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

(2) The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the stormwater control facility, and shall state the terms, conditions and schedule of maintenance for facility. In addition, it shall grant to the town a right of entry in the event that the town administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the facility; however, in no case shall the right of entry, of itself, confer an obligation on the town to assume responsibility for the facility.

(3) A maintenance plan must be attached as an addendum to the operation and maintenance agreement which identifies the specific maintenance activities to be performed for each facility. The operation and maintenance agreement and maintenance plan templates to be completed may be obtained from the Town of Weddington. The operation and maintenance agreement must be approved by the town administrator prior to construction plan approval. The agreement shall be referenced on the final plat and recorded with the county register of deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the town administrator within 14 days following its recordation.

(4) For all stormwater management facilities required pursuant to this division, the required operation and maintenance agreement provided by the owner, homeowner's association, or similar entity, shall include all of the following provisions:

a. Acknowledgment that the owner or association shall continuously operate and maintain the stormwater management facilities.

b. Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the stormwater management facilities. If stormwater management facilities are not performing adequately or as intended or are not properly maintained, the Town of Weddington, in its sole discretion, may remedy the situation, and in such instances the Town of Weddington shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the owner or association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the stormwater management facilities provided that the Town of Weddington shall first consent to the expenditure.

c. Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to 15 percent of the initial construction cost of the stormwater management facilities. Two-thirds of the total amount of sinking fund budget shall be deposited into the escrow account within the first five years and the full amount shall be deposited within ten years following initial construction of the stormwater management facilities. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the owner or association shall include an

allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

d. The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town of Weddington depending on the design and materials of the stormwater control and management facility.

e. Granting to the Town of Weddington a right of entry to inspect, monitor, maintain, repair and reconstruct stormwater management facilities.

f. Allowing the Town of Weddington to recover from the owner or association and its members any and all costs the Town of Weddington expends to maintain or repair the stormwater management facilities or to correct any operational deficiencies. Failure to pay the Town of Weddington all of its expended costs, after 45 days' written notice, shall constitute a breach of the agreement. In case of a deficiency, the Town of Weddington shall thereafter be entitled to bring an action against the owner or the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs and attorney fees shall be added to the recovery.

g. A statement that this agreement shall not obligate the Town of Weddington to maintain or repair any stormwater management facilities, and the Town of Weddington shall not be liable to any person for the condition or operation of stormwater management facilities.

h. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town of Weddington to enforce any of its ordinances as authorized by law.

i. A provision indemnifying and holding harmless the Town of Weddington for any costs and injuries arising from or related to the stormwater management facilities, unless the Town of Weddington has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

(c) *Maintenance easement.* Prior to approval of the final stormwater management plan, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land, including any homeowners associations, served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Weddington, or their contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this division. The easement agreement shall be recorded in the Union County Register of Deeds land records.

(d) *Inspections.* The person responsible for maintenance of any stormwater management facility installed pursuant to this division shall submit to the zoning administrator an annual inspection report from a qualified, registered North Carolina professional engineer performing services only in their area of competence during the renewal window prescribed in the Town of Weddington Enforcement Manual. Failure to provide the inspection report may result in enforcement and penalties as described herein. The inspection report shall contain all of the following:

(1) The name and address of the land owner;

(2) The recorded book and page number of the lot of each stormwater management facility;

(3) A statement that an inspection was made of all stormwater management facilities;

(4) The date the inspection was made;

(5) A statement that all inspected stormwater facilities are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this division; and

(6) The original signature and seal of the engineer. An original inspection report shall be provided to the zoning administrator beginning one year from the date of as-built certification and each year thereafter on or before the anniversary date of the as-built certification.

(e) *Records of installation and maintenance activities.* The owner, its successors and assigns, including any homeowners association, of each stormwater management facility shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the zoning administrator.

(f) *Nuisance.* The owner, its successors and assigns, including any homeowners association, of each stormwater management facility, shall maintain it so as not to create a nuisance condition.

(Ord. No. O-2014-14, 11-10-2014; Ord. No. O-2015-16, 11-9-2015; Ord. No. O-2016-01, 3-14-2016)

Sec. 58-543.3. - Enforcement and violations.

(a) *General.*

(1) The provisions of this division shall be enforced by the zoning administrator, his or her designee, or any authorized agent of the Town of Weddington. Whenever this section refers to the zoning administrator, it includes his or her designee as well as any authorized agent of the Town of Weddington.

(2) Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this division, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this division, is unlawful and shall constitute a violation of this division.

(3) Each day that a violation continues shall constitute a separate and distinct violation or offense.

(4) Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, detention facility, stormwater management facility, practice, or condition in violation of this division, as well as any person who participates in, assists, directs, creates, causes or maintains a condition that results in or constitutes a violation of this division, or fails to take appropriate action, so that a violation of this division results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. For the purposes of this article, responsible person(s) shall include but not be limited to:

a. Person maintaining condition resulting in or constituting violation;

b. Any person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this division, or fails to take appropriate action, so that a violation of this division results or persists;

c. Responsibility for land or use of land;

d. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater management practices pursuant to a private agreement or public document, and any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

(b) *Inspections and investigations by the town.*

(1) Inspections by the Town of Weddington may be conducted or established on any reasonable basis, including but not limited to, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in detention facility; and evaluating the condition of detention facility.

(2) The zoning administrator shall have the authority to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this division, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting. No person shall refuse entry or access to the zoning administrator who requests entry for purpose of inspection or investigation, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with the zoning administrator while in the process of carrying out official duties. The zoning administrator shall also have the power to require written statements, or the filing of reports under oath as part of an investigation.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-543.4. - Remedies and penalties.

General. The remedies and penalties provided for violations of this division, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(1) *Remedies.*

a. The zoning administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

b. As long as a violation of this division continues and remains uncorrected, the zoning administrator or other authorized agent may withhold, and the town planning board may disapprove, any request for permit or development approval or authorization provided for by this division or the zoning ordinance for the land on which the violation occurs.

c. The zoning administrator, with the written authorization of the town council, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this division. Any person violating this division shall be subject to the full range of equitable remedies provided in the North Carolina General Statutes or at common law.

d. If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by North Carolina G.S. 160A-193, the zoning administrator, with the written authorization of the town council may cause the violation to be corrected and the costs to be assessed as a lien against the property.

e. The zoning administrator may issue a stop work order to the person(s) violating this division. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

(2) *Civil penalties.* Violation of this division may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the zoning administrator. Civil penalties may be assessed up to the full amount allowed by law.

(3) *Criminal penalties.* Violation of this division may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-543.5. - Procedures.

(a) *Initiation/complaint.* Whenever a violation of this division occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the zoning administrator, who shall record the complaint. The complaint shall be investigated promptly by the zoning administrator.

(b) *Inspection.* The zoning administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this division.

(c) *Notice of violation and order to correct.*

(1) When the zoning administrator finds that any building, structure, or land is in violation of this division, the zoning administrator shall notify, in writing, the property owner or other person violating this division. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

(2) The zoning administrator may deliver the notice of violation and correction order personally, by the (Town of Weddington Code Enforcement Officer), by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

(3) If a violation is not corrected within a reasonable period of time, as provided in the notification, the zoning administrator may take appropriate action under this division to correct and abate the violation and to ensure compliance with this division.

(d) *Extension of time.* A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the zoning administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the zoning administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 90 days. The zoning administrator may grant 30-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this division. The zoning administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

(e) *Enforcement after time to correct.* After the time has expired to correct a violation, including any extension(s) if authorized by the zoning administrator, the zoning administrator shall determine if the violation is corrected. If the violation is not corrected, the zoning administrator may act to impose one or more of the remedies and penalties authorized by this division.

(f) *Emergency enforcement.* If delay in correcting a violation would seriously threaten the effective enforcement of this division or pose an immediate danger to the public health, safety or welfare, then the zoning administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The zoning administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-544. - Wetlands.

All developments shall fully comply with the state and federal requirements of Sections 401 and 404 of the Clean Water Act, related to the protection of wetlands and surface waters. All developments shall obtain any required permits from the United States Army Corps of Engineers, pursuant to Section 404 before submitting a permit application. When required, water quality certifications must also be obtained from the North Carolina Department of Environment and Natural Resources, Division of Water Quality, pursuant to Section 401 of the Clean Water Act before submitting a permit application.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-545. - Pond evaluation.

(a) All preliminary plats that include proposed permanent ponds, and all preliminary plats that include stormwater runoff to any existing permanent ponds, shall be subject to the review of the state dam safety engineer. An evaluation of the pond dam shall be made by the designer, in accordance with the Dam Safety Law of 1967, and submitted to the dam safety engineer for review.

(b) All existing ponds shall be evaluated and rehabilitated as necessary to ensure that the ponds will safely withstand the 50-year storm with a minimum of 0.50 feet of freeboard at the dam. Design calculations shall be based upon the existing built upon conditions for areas of the drainage basin within the town's jurisdiction. Design calculations shall assume future buildout conditions for any non-town jurisdictional areas within the drainage basin.

(c) All proposed ponds which are constructed to meet stormwater detention requirements shall be designed as described in section 58-543.

(d) All proposed ponds constructed for uses other than complying with detention requirements, such as for recreational use only, shall be designed to withstand the 100-year storm with a minimum of 1.0 feet of freeboard at the dam. Design calculations assumptions shall be the same as the existing pond evaluation criteria as described above.

(Ord. No. O-2014-14, 11-10-2014; Ord. No. O-2015-08, 6-8-2015)

Sec. 58-546. - NPDES Stormwater Program Phase II (Post Construction Stormwater Management).

(a) Development and redevelopment projects within the Town of Weddington must apply to the NC Department of Energy, Mineral and Land Resources for a state stormwater permit. Written approval from the state shall be required prior to town approval of proposed development.

(b) The requirements for post-construction stormwater management apply to developments in which the total land disturbance is one acre or more. The NPDES program classifies development into two categories: low-density and high density. Both categories of projects require a permit. Project design requirements are shown in Section 9 of S.L. (Session Law) 2006-246. Exclusions from post-construction practices are shown in Section 8.

(c) New development activities within the Six-Mile Creek Watershed are subject to more stringent requirements as a result of an administrative law judge ruling and environmental management commission (EMC) decisions relating to the protection of the Carolina Heelsplitter, an endangered species. NCDENR policies shall govern development in this watershed and specific requirements should be verified with state personnel.

(Ord. No. O-2014-14, 11-10-2014)

Sec. 58-547. - Definitions.

When used in this division, the following words and terms shall have the meaning set forth in this section, unless other provisions of this division specifically indicate otherwise:

Built-upon area (BUA). That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

Detention. The temporary storage of stormwater runoff in a stormwater management practice with the goals of controlling peak discharge rates and discharge volume.

Development. Any land-disturbing activity that increases the amount of built upon area or that otherwise decreases the infiltration of precipitation into the soil.

Drainage easement. An area of land dedicated for the purpose of conveying stormwater runoff by means of an open channel or drainage pipe.

Floodplain. The one percent annual chance floodplain as delineated by the North Carolina Floodplain Mapping Program in the Division of Emergency Management.

Freeboard. The elevation difference between the full pond and the crest of the dam embankment. Freeboard protects the bank from wave action and overtopping under high-intensity rainfall.

Impervious area. Surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, gravel surfaces, sidewalks, driveways, etc.).

New impervious area. Impervious area created after November 13 th , 2014.

Runoff. The excess precipitation from rain or snowfall which flows over the ground.

Stormwater management facility. A physical device designed to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics to approximate the pre-development hydrology on a developed site. "Stormwater management facility" is synonymous with "stormwater control facility", "stormwater management practice", "detention facility", "BMP", and similar terms used in this division.

(Ord. No. O-2014-14, 11-10-2014; Ord. No. O-2015-08, 6-8-2015)

APPENDIX 9. HISTORIC PRESERVATION.

DESIGNATION OF HISTORIC DISTRICTS

Sec. 26-57. - Adoption of an ordinance of designation of a historic district.

Upon compliance with the procedures set out in section 26-59, the town council may, as part of a zoning or other ordinance enacted or amended pursuant to this article, designate and from time to time amend one or more historic districts within the area subject to the ordinance. Such ordinance may treat historic districts either as a separate use district classification or as districts which overlay other zoning districts. Where historic districts are designated as separate use districts, such districts may include as uses, by right or as conditional or special uses, those uses found by the historic preservation commission to have existed during the period sought to be restored or preserved, or to be compatible with the restoration or preservation of the district.

(Ord. of 9-13-1993, § 3.1)

Sec. 26-58. - Definition of character of a historic district.

Historic districts established pursuant to this division shall consist of areas which are deemed and found by the historic preservation commission to be of special significance in terms of their history, prehistory architecture, and/or culture, and to possess integrity of design, setting, materials, feeling and association.

(Ord. of 9-13-1993, § 3.2)

Sec. 26-59. - Required procedures.

(a) No historic district or districts shall be designated until:

(1) An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district has been prepared; and

(2) The department of cultural resources, acting through the state historic preservation officer or his or her designee, shall have made an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the town council within 30 calendar days after a written request for such analysis has been received by the department of cultural resources shall relieve the town council of any responsibility for awaiting such analysis, and the town council may at any time thereafter take any necessary or desired action.

(b) The town council may also, in its discretion, refer the report and the proposed boundaries to any other interested body for its recommendation prior to taking action to create a historic district. With respect to any changes in the boundaries of such district subsequent to its initial establishment, or the creation of additional districts with the jurisdiction, the investigative studies and reports required by subsection (a) of this section shall be prepared by the commission and shall be referred to the local planning agency for its review and comment according to procedures set forth in this UDO. Changes in the boundaries of an initial district or proposal for additional districts shall also be submitted to the department of cultural resources in accordance with the provisions of subsection (a)(2) of this section.

(c) Upon receipt of these reports and recommendations, the town council may proceed in the same manner as would otherwise be required for the adoption or amendment of any appropriate zoning provisions.

(Ord. of 9-13-1993, § 3.2)

Secs. 26-60—26-76. - Reserved.

DESIGNATION OF LANDMARKS

Sec. 26-77. - Adoption of an ordinance of designation of landmarks.

(a) Upon complying with the landmark designation procedures as set forth in this division, the town council may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the historic preservation commission to be of special significance in terms of its historical, prehistoric, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

(b) The ordinance designating a historic landmark shall describe each property designated in the ordinance, the name of the owner of the property, those elements of the property that are integral to its historical, architectural, or prehistoric value, including the land areas of the property so designated and any other information the town council deems necessary. For each building, structure, site, area or object so designated as a historic landmark, the ordinance shall require that the waiting period set forth in G.S. part 3C be observed prior to its demolition. For each designated landmark, the ordinance may also provide for a suitable sign on the property indicating that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If an owner objects, the sign shall be placed on a nearby public right-of-way.

(Ord. of 9-13-1993, § 4.1)

Sec. 26-78. - Inventory of landmarks.

As a guide for the identification and evaluation of landmarks, the historic preservation commission shall undertake, at the earliest possible time and consistent with the resources available to it, an inventory of properties of historical, architectural, prehistorical and cultural significance within its jurisdiction. Such inventories and any additions or revisions thereof shall be submitted as expeditiously as possible to the division of archives and history.

(Ord. of 9-13-1993, § 4.2)

Sec. 26-79. - Required procedures.

No ordinance designating a historic building, structure, site, area or object as a landmark and no amendment thereto may be adopted, and no property may be accepted or acquired by the historic preservation commission or the town council until all of the following procedural steps have been taken:

(1) The historic preservation commission shall prepare and adopt rules of procedure and principles and guidelines for altering, restoring, moving or demolishing properties designated as landmarks.

(2) The historic preservation commission shall make or cause to be made an investigation and report on the historic, architectural, prehistorical, education or cultural significance of each building, structure, site, area or object proposed for designation or acquisition. The investigation and report shall be forwarded to the division of archives and history, state department of cultural resources.

(3) The department of cultural resources, acting through the state historic preservation officer, shall either upon request of the department or at the initiative of the historic preservation commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. Comments shall be provided in writing within 30 days following receipt by the department of the investigation and report. The town council shall be relieved of any responsibility to consider department comments if such comments are not received within 30 days.

(4) The owner of the property proposed to be designated as a landmark shall have filed an application with the historic preservation commission requesting that the property be designated as a landmark.

(5) The historic preservation commission and the town council shall hold a joint public hearing or separate public hearings on the proposed ordinance. Notice of the time, place and purpose of the public hearing shall be mailed to all adjoining property owners, including the owners of properties located across any street or road from the property proposed to be a landmark, at least two weeks prior to the hearing, by first class mail. Notice of the public hearing shall be published in a 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. Owners of the property proposed to be designated a historic property or included in a historic district shall be mailed a notice of the public hearing ten days prior to same.

(6) Following the public hearing, the town council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

(7) Upon adoption of the ordinance, the owners and occupants of each designated landmark shall be given written notification of such designation insofar as reasonable diligence permits. One copy of the ordinance and all amendments thereto shall be filed by the historic preservation commission in the office of the county register of deeds. Each designated landmark shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the county register of deeds' office. The historic preservation commission shall pay a reasonable fee for filing and indexing. All amendments thereto shall be kept on file in the office of the town clerk and shall be available for public inspection at any reasonable time.

(8) Upon the adoption of the landmarks ordinance or any amendment thereto, it shall be the duty of the historic preservation commission to give notice thereof to the tax supervisor of county. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

(Ord. of 9-13-1993, § 4.3)

Secs. 26-80—26-101. - Reserved.

ALTERATION OR DEMOLITION OF DESIGNATED LANDMARK OR HISTORIC DISTRICT

Sec. 26-102. - Certificate of appropriateness.

(a) From and after the designation of a landmark or a historic district, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), no aboveground utility structure, and no type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on such landmark (or within such district) until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the commission. Such a certificate is required to be issued by the commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures, and such certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this division. A certificate of appropriateness shall be required whether or not a building or other permit is required.

(b) For purposes of this division, the term "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant features. In the case of outdoor advertising signs, the term "exterior features" shall be construed to mean the style, material, size and location of all such signs. Such exterior features may, in the discretion of the town council, include historic signs, color and significant landscape, archaeological, and natural features of the area.

(c) Except as provided in section 26-103, the historic preservation commission shall have no jurisdiction over interior arrangement and shall take no action under this section except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs or other significant features in the district or of the landmark which would be incongruous with the special character of the landmark or district.

(Ord. of 9-13-1993, § 5.1)

Sec. 26-103. - Limitation on jurisdiction over interior spaces.

Notwithstanding section 26-102, the jurisdiction of the historic preservation commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned landmarks and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of any owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the county register of deeds and indexed according to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the historic preservation commission's jurisdiction over the interior.

(Ord. of 9-13-1993, § 5.2)

Sec. 26-104. - Application for certificate of appropriateness.

An application for a certificate of appropriateness shall be obtained from the historic preservation commission, and when completed, filed with the historic preservation commission.

(Ord. of 9-13-1993, § 5.3)

Sec. 26-105. - Contents of an application for certificate of appropriateness.

The application for a certificate of appropriateness shall, in accordance with the historic preservation commission's rules of procedure, contain data that is reasonably necessary to determine the nature of the application. An application for a certificate of appropriateness shall not be considered complete until all required data has been submitted.

(Ord. of 9-13-1993, § 5.4)

Sec. 26-106. - Time for hearing application for certificate of appropriateness.

Applications shall be considered by the historic preservation commission at its next regular meeting, provided they have been filed, complete in form and content, at least 30 calendar days before the regularly scheduled meeting of the commission. Otherwise, they shall be deferred until the next meeting or considered at a specially called meeting of the commission. Nothing shall prevent the applicant from filing with the application additional relevant information bearing on the application.

(Ord. of 9-13-1993, § 5.5)

Sec. 26-107. - Notification by historic preservation commission of affected property owners.

Upon receipt of an application for a certificate of appropriateness, the historic preservation commission shall notify the owners of any property likely to be materially affected by the application in writing at least ten days before the regularly scheduled meeting at which the application is to be heard. Notice to property owners likely to be materially affected by the application shall include all adjoining property owners and the owners of properties located across any roadway from the affected property. Such owners shall be given an opportunity to be heard.

(Ord. of 9-13-1993, § 5.6)

Sec. 26-108. - Public hearing.

When an application for a certificate of appropriateness is presented to the historic preservation commission, a public hearing shall be held. All meetings of the commission shall be open to the public in according with the state Open Meetings Law, G.S. 143-33C.

(Ord. of 9-13-1993, § 5.7)

Sec. 26-109. - Action on an application for a certificate of appropriateness.

(a) The action on an application for a certificate of appropriateness shall be approval, approval with modification, or denial.

(b) Prior to any final action on an application the review criteria in section 26-110 shall be used to make findings of fact indicating the extent to which the application for a certificate of appropriateness is or is not congruous with the historic aspects of the district or landmark.

(c) All applications for certificates of appropriateness shall be reviewed and acted upon within a reasonable time as defined by the rules of procedure, and not exceeding 60 days from the date the application is filed. As part of its

review procedure the commission may view the premises and seek the advice of the department of cultural resources or other such experts as it may deem necessary under the circumstances.

(Ord. of 9-13-1993, § 5.8)

Sec. 26-110. - Review criteria for certificate of appropriateness.

(a) It is the intent of these criteria and the design guidelines to insure, insofar as possible, that changes to a designated landmark or structures in a historic district shall be in harmony with the reasons for designation.

(b) When considering a certificate of appropriateness, the historic preservation commission shall take the historic or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure, as well as the effect of such change or additions upon other structures in the vicinity. In a historic district it is not the intention of these criteria or the guidelines to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of same or to impose architectural styles from a particular historic period. In considering new construction in a historic district, the historic preservation commission shall encourage contemporary design that is harmonious with the character of the district.

(c) The following criteria shall be considered, when relevant, along with companion design guidelines and the guidelines of the secretary of the interior in reviewing for a certificate of appropriateness:

(1) Lot coverage, defined as the percentage of lot area covered by primary structures;

(2) Setback, defined as the distance from the lot lines to the building;

(3) Building height;

(4) Spacing of buildings, defined as the distance between adjacent buildings;

(5) Building materials;

(6) Proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;

(7) Surface textures;

(8) Roof shapes, form and materials;

(9) Use of local or regional architectural traditions;

(10) General form and proportions of buildings and structures, and relationship of any additions to the main structure;

(11) Expression of architectural detailing, such as lintels, cornices, brick bond, and decorative elements;

(12) Orientation of the building to the street;

(13) Scale, determined by the size of the units of construction and architectural details in relation to the human scale and also by the relationship of the building mass to adjoining open space and nearby buildings and structures;

(14) Proportion of width to height of the total building facade;

(15) Archaeological sites and resources associated with standing structures;

(16) Major landscaping efforts that would impact known archaeological sites;

(17) Appurtenant features and other features such as lighting; and

(18) Structural condition and soundness.

(Ord. of 9-13-1993, § 5.9)

Sec. 26-111. - Minor work.

A certificate of appropriateness application, when determined to involve minor work, may be reviewed and approved by an administrative official according to specific review criteria and guidelines. For the purpose of this section, the term

"minor work" means those exterior changes that do not involve substantial alterations, additions, or removals that could impair the integrity of the property (and/or the district as a whole). Such minor works shall be limited to those listed in the commission's rules of procedure. No application involving minor work may be denied without the formal action of the historic preservation commission.

(Ord. of 9-13-1993, § 5.10)

Sec. 26-112. - Certain changes not prohibited.

Nothing in this division shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of a historic landmark or in a historic district which does not involve a change in design, materials, or outer appearance thereof, or to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner from making any use of his property not prohibited by other statutes, ordinances or regulations. Nothing in this division shall be construed to prevent the maintenance or, in the event of an emergency, the immediate restoration of any existing aboveground utility structures without approval by the commission.

(Ord. of 9-13-1993, § 5.11)

Sec. 26-113. - Appeals.

An appeal may be taken to the town board of adjustment from the historic preservation commission's action in granting or denying any certificate. The appeals may be taken by any aggrieved party, shall be taken within times prescribed by the commission in the rules of procedure, and shall be in the nature of certiorari. Any appeal from the appropriate board of adjustment's decision in any such case shall be heard by the superior court of the county.

(Ord. of 9-13-1993, § 5.12)

Sec. 26-114. - Submission of new applications.

If a certificate of appropriateness is denied, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving.

(Ord. of 9-13-1993, § 5.13)

Secs. 26-115—26-141. - Reserved.

DELAY IN DEMOLITION OF LANDMARKS AND BUILDINGS WITHIN HISTORIC DISTRICTS

Sec. 26-142. - Delay by historic preservation commission.

An application for a certificate of appropriateness authorizing the demolition or destruction of a designated landmark or a building, structure, or site within the district may not be denied except as provided in section 26-144. However, the effective date of such a certificate may be delayed for a period of up to 180 days from the date of approval. The maximum period of delay authorized this section shall be reduced by the historic preservation commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay. During such period, the historic preservation commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the buildings or site. If the historic preservation commission finds that a building site within the historic district has no special significance or value toward maintaining the character of the district, it shall waive all or part of such period and authorize earlier demolition or removal.

(Ord. of 9-13-1993, § 6.1)

Sec. 26-143. - Delay pending designation as district or landmark.

If the historic preservation commission has voted to recommend designation of a property proposed by an owner to be so designated as a landmark or designation of an area as a district, and final designation has not been made by the town council, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the town council for a period of up to 180 days or until the town council takes final action on the designation, whichever occurs first.

(Ord. of 9-13-1993, § 6.2)

Sec. 26-144. - Prevention of demolition by neglect.

The town council may enact an ordinance to prevent the demolition by neglect of any designated landmark or any building or structure within an established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue economic hardship.

(Ord. of 9-13-1993, § 6.3)

Sec. 26-145. - Structures having statewide significance.

An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site or structure determined by the state historic preservation officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

(Ord. of 9-13-1993, § 6.4)

APPENDIX 10. HOUSING CODE.

Sec. 14-42. - Finding; purpose.

(a) Pursuant to G.S. 160A-441, it is hereby declared that there exist in the town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.

(b) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. 160A6, art. 19, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444.

(Ord. No. O-2006-21, § 1, 10-9-2006)

Sec. 14-43. - Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Basement means a portion of a dwelling which is located partly underground and which has direct access to light and air from windows located above the level of the adjoining ground.

Cellar means a portion of a dwelling which is located partly or wholly underground and which has an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Deteriorated means that a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this article at a cost not in excess of 50 percent of its value, as determined by finding of the inspector.

Dilapidated means that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter except at a cost in excess of 50 percent of its value, as determined by finding of the inspector.

Dwelling means any building, structure, manufactured home or mobile home, or part thereof used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith; provided that it does not include any manufactured home or mobile home which is used solely for a seasonal vacation purpose.

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Extermination means the control and elimination of insects, rodents or other pests by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, or trapping, or by any other recognized and legal pest elimination methods approved by the inspector.

Garbage means the organic waste resulting from the handling, preparation, cooking and consumption of food.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, lavatories, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

Infestation means the presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a detriment or as to pose a risk to the health, safety or welfare of the occupants or the public.

Inspector means the building inspector of the town, whether by town designation or by contract with another political subdivision, or any authorized agent of the inspector.

Multiple dwelling means any dwelling containing more than one dwelling unit.

Occupant means any person over one year of age living, sleeping, cooking or eating in, or having actual possession of a dwelling, dwelling unit or rooming unit.

Operator means any person who has charge, care or control of a building or part thereof in which dwelling units or rooming units are let.

Owner means the holder of the title in fee simple and every mortgagee of record.

Party or parties in interest means all persons who have interests of record in a dwelling, dwelling unit or rooming unit and any persons who are in possession thereof.

Plumbing means and shall include all of the following supplied facilities and equipment:

(1) Gas pipes;

(2) Gas burning equipment;

(3) Water pipes;

(4) Mechanical garbage disposal units (mechanical sink grinders);

(5) Sewage disposal pipes;

(6) Water closets;

(7) Sinks;

(8) Installed dishwashers;

(9) Lavatories;

(10) Bathtubs;

(11) Shower baths;

(12) Installed clothes washing machines;

(13) Catchbasins;

(14) Drains;

(15) Vents; and

(16) Any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

Public authority means any officer who is in charge of any department or branch of the government of the town, county, or state relating to health, fire, building regulations or other activities concerning dwellings in the town.

Rooming unit means any room or group of rooms within a roominghouse forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Roominghouse means any dwelling or the part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator.

Rubbish means nonorganic waste materials. The term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, and dust.

Supplied means paid for, furnished, or provided by or under the control of the owner or operator.

Temporary housing means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

Unfit for human habitation means that conditions exist in a dwelling, dwelling unit, roominghouse or rooming unit which violate or do not comply with one or more of the minimum standards of fitness established by this article.

(b) Whenever the words "dwelling, dwelling unit, roominghouse, rooming unit, premises" are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

(Ord. No. O-2006-21, §§ 2, 2.1, 10-9-2006)

Sec. 14-44. - Minimum standards of fitness for dwellings and dwelling units.

(a) Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 14-45 through 14-50.

(b) No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of sections 14-45 through 14-50.

(Ord. No. O-2006-21, § 3, 10-9-2006)

Sec. 14-45. - Minimum standards for structural condition.

The following standards shall constitute the minimum standards for structural condition of a dwelling or dwelling unit:

(1) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.

(2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(3) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

(4) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(5) Adequate facilities for egress in case of fire, panic, or other emergency shall be provided.

(6) Interior walls and ceilings of all rooms, closets and hallways shall be finished with suitable materials which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(7) The roof, flashing, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weathertight and watertight.

(8) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

(9) There shall be no use of the ground for floors, nor may wood floors be placed directly on top of the ground.

(Ord. No. O-2006-21, § 4, 10-9-2006)

Sec. 14-46. - Minimum standards for basic plumbing, heating and electrical equipment and facilities.

(a) *Plumbing system.*

(1) Each dwelling unit shall be connected to a potable water supply and to a public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, a lavatory containing both a sink and toilet facilities, a tub or shower, and an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the state plumbing code and shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(b) *Heating system.* Every dwelling or dwelling unit shall provide a source of heat or heating system in accordance with the following:

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70 degrees Fahrenheit, measured at a point three feet above the floor, during ordinary winter conditions.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling or dwelling unit shall be provided with a sufficient source of heat (i.e., space heaters) which are properly installed and connected to chimneys, flues, gas vents or other facilities to heat all habitable rooms, bathrooms, and water closet compartments to a minimum temperature of 70 degrees Fahrenheit, measured at a point three feet above the floor, during ordinary winter conditions.

(c) *Electrical system.*

(1) Every dwelling or dwelling unit shall be wired for electric lights and outlets. Every habitable room shall contain at least two floor or wall-type electric outlets, connected in such manner as determined by the state electrical code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric outlets.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the state electrical code.

(4) Every dwelling shall be equipped with smoke detectors installed to protect occupants in all sleeping areas.

(Ord. No. O-2006-21, § 5, 10-9-2006)

Sec. 14-47. - Minimum standards for ventilation.

(a) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation.

(b) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms; provided that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

(Ord. No. O-2006-21, § 6, 10-9-2006)

Sec. 14-48. - Minimum standards for space, use and location.

(a) *Room sizes.*

(1) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the state residential building code.

(2) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(b) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

(c) *Floor area calculation*. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than 4½ feet shall not be considered as part of the floor area for the purpose of determining maximum permissible occupancy.

(d) *Cellar*. No cellar shall be used for living purposes.

(e) *Basements*. No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight;

(2) The total window area, total openable window area and ceiling height are equal to those required for habitable rooms;

(3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window faces a stairwell, window well or accessway.

(Ord. No. O-2006-21, § 7, 10-9-2006)

Sec. 14-49. - Minimum standards for safe and sanitary maintenance.

(a) *Exterior foundation, walls and roofs*. Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodent proof, shall be kept in sound condition and good repair, shall be capable of affording privacy, and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering, to prevent the entrance or penetration of moisture or the weather.

(b) *Interior floors, walls and ceilings*. Every floor, interior wall and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use would cause to be placed thereon.

(c) *Windows and doors*. Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof and shall be kept in sound working condition and good repair.

(d) *Stairs, porches and appurtenances*. Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use would cause to be placed thereon and shall be kept in sound condition and good repair.

(e) *Bathroom floors*. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so that it will be reasonably impervious to water and will permit such floor to be easily kept in a clean and sanitary condition.

(f) *Supplied facilities*. Every supplied facility, piece of equipment or utility which is required under this article shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(g) *Drainage*. Every yard shall be properly graded in order to obtain thorough drainage and to prevent the accumulation of stagnant water.

(h) *Noxious weeds*. Every yard and all exterior property areas shall be kept free of species of weeds or plant growth, which are noxious or detrimental to health.

(i) *Egress*. Every dwelling unit shall be provided with adequate means of egress as required by the state residential building code.

(Ord. No. O-2006-21, § 8, 10-9-2006)

Sec. 14-50. - Minimum standards for control of insects, rodents and infestations.

(a) *Rodent control*. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be equipped with screens or such other approved device as will effectively prevent their entrance.

(b) *Infestation*. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(c) *Rubbish storage and disposal*. Every dwelling and every dwelling unit shall use containers and covers for storage of rubbish, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(d) *Garbage storage and disposal*. Every dwelling and every dwelling unit shall use a disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit, or an outside garbage can.

(Ord. No. O-2006-21, § 9, 10-9-2006)

Sec. 14-51. - Minimum standards applicable to roominghouses; exceptions.

The provisions of this article shall be applicable to roominghouses and to every person who operates a roominghouse or who occupies or lets to another for occupancy any rooming unit in any roominghouse, except as follows:

(1) *Water closet, hand lavatory and bath facilities*. At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a roominghouse wherever these facilities are shared. All such facilities shall be located within the residence building served, shall be directly accessible from a common hall or passageway, and shall be not more than one story above or below the rooming unit of any person sharing such facility. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(2) *Minimum floor area for sleeping purposes*. Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(3) *Sanitary conditions*. The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the roominghouse. He shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the roominghouse is contained is leased or occupied by the operator.

(4) *Sanitary facilities*. Every water closet, flush urinal, lavatory basin and bathtub or shower required by subsection (1) of this section shall be located within the roominghouse and within a room or rooms which afford privacy, are separate from the habitable rooms, are accessible from a common hall, and are accessible without going outside the roominghouse or through any other room therein.

(Ord. No. O-2006-21, § 10, 10-9-2006)

Sec. 14-52. - Responsibilities of owners and occupants.

(a) *Public areas*. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(b) *Cleanliness*. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.

(c) *Rubbish and garbage*. Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases, the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(d) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(e) *Care of facilities, equipment and structure.* No occupant shall willfully destroy, deface, or impair any of the facilities or equipment or any part of the structure of a dwelling or dwelling unit.

(Ord. No. O-2006-21, § 11, 10-9-2006)

Sec. 14-53. - Powers and duties of building inspector.

The building inspector is hereby designated as the officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed. The building inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article. The building inspector shall have the following powers and duties:

(1) Investigate the dwelling conditions and inspect dwellings and dwelling units located in the town in order to determine which dwellings and dwelling units are unfit for human habitation for the purpose of carrying out the objectives of this article with respect to the repair, closing or demolition of such dwellings and dwelling units;

(2) Take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(3) Keep a record of the results of inspections made under this article and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed;

(4) Administer oaths and affirmations, examine witnesses and receive evidence;

(5) Enter upon premises for the purpose of making examinations and inspections; provided that such entries shall be made in accordance with section 14-54 and with state law, and shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(6) Appoint and fix the duties of such officers, agents, and employees as he deems necessary to assist in carrying out the purposes of this article, and to delegate any of his functions and powers to such officers, agents and employees; and

(7) Perform such other duties as may be prescribed herein or by the town council.

(Ord. No. O-2006-21, § 12, 10-9-2006)

Sec. 14-54. - Inspections; duty of owners and occupants.

(a) For the purpose of making inspections, the inspector is hereby authorized to enter, examine and survey, at all reasonable times, all dwellings, dwelling units, roominghouses, rooming units and the premises associated therewith. The owner or occupant of every dwelling, dwelling unit, roominghouse or rooming unit, or the person in charge thereof, shall give the inspector free access to such dwelling, dwelling unit, roominghouse or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination and survey.

(b) Every occupant of a dwelling, dwelling unit, roominghouse or rooming unit shall give the owner thereof or his agent or employee access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.

(Ord. No. O-2006-21, § 13, 10-9-2006)

Sec. 14-55. - Procedure for enforcement.

(a) *Preliminary investigation; notice; hearing.*

(1) Whenever a petition is filed with the inspector by a public authority or by at least five residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the inspector or his designated agent at a place therein fixed not less than ten or more than 30 days after the serving of the complaint.

(2) The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.

(b) *Procedure after hearing.*

(1) After such notice and hearing, the inspector shall state in writing his determination whether the dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

(2) If the inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article within a specified period of time, not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.

(3) If the inspector determines that the dwelling is dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner either to repair, alter or improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this article, or else to vacate and remove or demolish the same within a specified period of time, not to exceed 90 days.

(c) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the inspector to repair, alter, or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the inspector to repair, alter or improve or to vacate and close and remove or demolish the same within the time specified therein, the inspector shall submit to the town council, at its next regular meeting, a resolution directing the town attorney to petition the superior court for an order directing such owner to comply with the order of the inspector.

(2) *In rem remedy.* After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in subsection (c)(1) of this section, the inspector shall submit to the town council an ordinance ordering the inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the inspector, and pending removal or demolition, to place a placard on such dwelling as provided by section 14-57 and G.S. 160A-443.

(d) *Appeals from orders of inspector.* An appeal of any decision or order of the inspector may be taken by any person aggrieved thereby. Any appeal of the decision or order of the inspector shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the inspector and with the town board of adjustment a notice of appeal, which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the decision appealed from was made. When an appeal is of a decision of the inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When an appeal is of a decision of the inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board of adjustment, unless the inspector certifies to the board of adjustment, after the notice of appeal is filed with him, that, by reason of the facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of this requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended, except by a restraining

order. Such a restraining order may be granted for due cause shown upon not less than one day's written notice to the inspector, by the board of adjustment, or by a court of record upon petition made pursuant applicable law and subsection (e) of this section.

(1) The board of adjustment shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. The board shall adopt necessary rules of procedure and adopt other rules and regulations for the proper discharge of its duties under this article, and it shall keep an accurate record of all its proceedings. Any party may appear in person or by agent or attorney.

(2) The board of adjustment may reverse or affirm, wholly or in part, or may modify the decision or order appealed, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the inspector, but the concurring vote of four members of the board of adjustment shall be necessary to reverse or modify any decision or order of the inspector.

(3) The board of adjustment shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this article, to adapt the application of this article to the necessities of the case to the end that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done.

(4) Every decision of the board of adjustment shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the board of adjustment, but not otherwise.

(e) *Petition to superior court by owner.* Any person aggrieved by an order issued by the inspector or a decision rendered by the board of adjustment shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the inspector, pending a final disposition of the cause, as provided by applicable law.

(Ord. No. O-2006-21, § 14, 10-9-2006)

Sec. 14-56. - Methods of service of complaints and orders.

(a) Complaints or orders issued by the inspector shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(b) If the identities of any owners or the whereabouts of persons are unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, or if the owners are known but have refused to accept service by registered or certified mail, the inspector shall make an affidavit to that effect, and the serving of such complaint or order upon the owners or such other persons may be made by publishing the same at least once no later than the time at which personal service would be required under the provisions of this article in a newspaper having general circulation in the town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

(Ord. No. O-2006-21, § 15, 10-9-2006)

Sec. 14-57. - In rem action by inspector; placarding.

(a) After failure of an owner of a dwelling or dwelling unit to comply with an order of the inspector issued pursuant to the provisions of this article, and upon adoption by the town council of an ordinance authorizing and directing him to do so, as provided by section 14-55(c) and G.S. 160A-443(5), the inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this article, or to be vacated and closed and removed or demolished, as directed by ordinance of the town council, and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words:

This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.

Occupation of a building so posted shall constitute a misdemeanor.

(b) Each such ordinance shall be recorded in the office of the county register of deeds and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443(5).

(Ord. No. O-2006-21, § 16, 10-9-2006)

Sec. 14-58. - Costs a lien on premises.

(a) As provided by G.S. 160A-443(6), the cost of any repairs, alterations or improvements, or of vacating and closing, or removal or demolition, caused to be made or done by the inspector pursuant to section 14-57 shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be collected in the same manner as the lien for special assessments established by G.S. ch. 160A, art. 10. The cost shall also be a lien on any other real property of the owner located within the town limits or within one mile thereof except for the owner's primary residence. Any such additional lien shall be inferior to all prior liens and shall be collected as a money judgment.

(b) If a dwelling is removed or demolished by the inspector, the inspector shall sell the materials of the dwelling and any personal property, fixtures or appurtenances found in or attached to the dwelling and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the inspector, secured in a manner directed by the court, and disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

(Ord. No. O-2006-21, § 17, 10-9-2006)

Sec. 14-59. - Alternative remedies.

Nothing in this article shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process as authorized by section 14-61 and G.S. 14-4. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy provided herein or in other ordinances or laws.

(Ord. No. O-2006-21, § 18, 10-9-2006)

Sec. 14-60. - Conflict with other provisions.

In the event any provision, standard, or requirement of this article is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

(Ord. No. O-2006-21, § 19, 10-9-2006)

Sec. 14-61. - Violations; penalty.

(a) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same upon order of the inspector, duly made and served as herein provided, within the time specified in such order. Each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.

(b) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section 14-55, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing. Each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(c) Any owner of a dwelling, except an owner who occupies the dwelling as his principal place of residence, who fails to comply with an order of the code enforcement officer to repair, alter or improve the dwelling, or to vacate and close and remove or demolish the dwelling, within the time specified in the order, shall be subject to a civil penalty in the amount of $100.00 for the first day of noncompliance and $10.00 for each day thereafter until the dwelling is brought into compliance with the order. This penalty may be recovered by the town in a civil action in the nature of the debt if the owner does not pay the same within 30 days after the initial day of noncompliance.

(d) The violation of any provision of this article shall constitute a misdemeanor, as provided by G.S. 14-4.

(e) In addition to the penalty established by subsection (c) of this section, and the remedies provided by other provisions of this article, this article may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

(Ord. No. O-2006-21, § 20, 10-9-2006)

Secs. 14-62—14-80. - Reserved.

WEDDINGTON

North Carolina