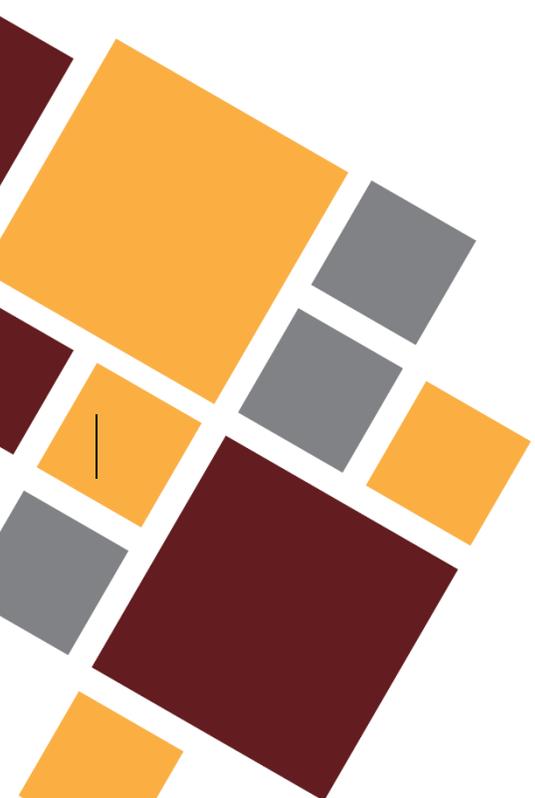


# UNIFIED DEVELOPMENT ORDINANCE



C O D I F Y  
CLAYTON



Adopted: 11.20.23  
Effective: 1.2.24  
Amended: ~~4.15~~9.16.24

## Town Council

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Jody McLeod, Mayor  
Michael Sims, Mayor Pro Tem  
Ruth Anderson, Councilmember  
Andria Archer, Councilmember  
Porter Casey, Councilmember  
Gretchen Williams, Councilmember

## Planning Board

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James Moore, Chair  
Jodie Dupree, Vice-Chair  
Derrick Applewhite  
Anita Bland  
Jodie Dupree  
Daniel Gleason  
Kevin Lee  
James Lipscomb  
Jeffrey Spence  
Mike Surasky  
Ronald Williams

## Town Staff

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Rich Cappola, Town Manager  
Lee Barbee, Deputy Town Manager  
Dolores Gill, Deputy Town Manager  
David Ranes, Fire Chief  
Anthony Atkinson, Deputy Fire Chief/Fire Marshal  
Barry Alston, Interim Building Inspections Director  
Joshua Baird, Engineering Director  
Patrick Pierce, Economic Development Director  
Byron Poelman, Water Resources Director  
Allen Turnage, Electric Director  
Ethan Poppe, Energy Services Technician  
Conrad Olmedo, Planning Director  
[Steven Mott, Planner II](#)  
Bruce Venable, Planner II

## Consultant

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CodeWright Planners, LLC  
Angela S. Manning, Inc  
Timmons Group



*CodeWright*  
P L A N N E R S



# UDO AMENDMENTS

UDO AMENDMENTS		
ORDINANCE NUMBER	ORDINANCE DATE	DESCRIPTION
UDOTA 1-24	4.15.24	<p>§1.8.6 No exclusion of TRC members from a TRC meeting</p> <p>§2.2.2 Add conservation subdivisions to the subdivision types table</p> <p>§2.3.8 Conventional Rezonings only processed in accordance with Town’s schedule</p> <p>§2.3.12 Clarify exempt subdivisions identified in NCGS</p> <p>§2.3.13 Removal of trail from fee-in-lieu procedure (trails are private and not required like greenways or sidewalks); revise term “sidepath” to “multi-use path” (also changed in §6.10.1 &amp; 8.3)</p> <p>2.3.24 Clarify that a Town-initiated street renaming does not require a petition</p> <p>§2.3.27 Revise traffic assessment from “shall” require to “may” require</p> <p>§2.3.29 Revise Riparian Buffer provisions to clarify administration by the State, not the Town</p> <p>§2.4.4 Remove the timing requirement from neighborhood meetings, and permit Town staff to attend in accordance with Planning <del>Director</del> Director discretion</p> <p>§3.2.12 Duplexes, triplexes, and quadplexes no longer permitted by right (CZR district option still available)</p> <p>§3.2.15 Duplexes no longer permitted by right (CZR district option still available)</p> <p>§3.3.1 Clarify that Type 3 Conditional Rezonings with deviation requests are expected to result in higher quality development</p> <p>§3.3.6 Clarify the default dimensional standards that would apply for higher density residential uses in the CZR district</p> <p>§3.5.1 Remove circular cross reference to conditional zoning districts permitting higher residential densities and clarify that density incentives may be combined in the same development</p> <p>§3.6.8 Clarify that district setbacks are measured from lot lines, not from easements or required landscaping areas</p> <p>§4.5.5.W Clarify that parking of heavy trucks and trailers is prohibited in more than just residential districts</p> <p>§4.5.5.X Clarify that recreational vehicles must be parked on an improved surface</p> <p>§6.5.10 Clarified water extension requirements for single-lot developments</p> <p>§6.5.12.F.6 Add provisions addressing performance guarantees when street stubs can not be extended to property boundaries; also clarify that internal street stubs are not credited as links in the street connectivity index</p> <p>§6.5.12.F.7 Clarify the rules surrounding development entry points</p> <p>§6.5.12.G Move vehicular gates out of private street standards and into its own sub-section; clarify private drives and driveways may have gates</p> <p>§6.5.13 clarified sewer extension requirements for individual developments</p> <p>§6.6.9 Clarified how setbacks are measured if there are conflicts with required landscaping or easements</p> <p>§6.7.1 Clarify that open space set-aside is not required for minor subdivisions and some forms of residential development</p> <p>§6.7.2 Clarifies parkland dedication is not required for minor residential subdivisions</p> <p>§6.10.1 Softens greenway provision requirements for additions and expansions of existing buildings</p> <p>§6.12 Revision of Riparian Buffer rules to clarify the State’s responsibility for enforcement</p> <p>§6.13.8.C Clarifies how wall signage is determined for tenants in multi-tenant buildings who rent more than one space in the same building</p> <p>§6.13.9 Clarify that sign supporting structures do not have maximum areas; walls sign measurement is wall sign area per linear foot of building facade</p> <p>§6.14.6 Updates to Soil Erosion &amp; Sedimentation Control provisions (also changed in §7.5.4 &amp; §7.9.1)</p>
<u>UDOTA 2-24</u>	<u>9.16.24</u>	



#### B. POWERS AND DUTIES

The Technical Review Committee shall have the power to review and provide a recommendation or comments on applications in accordance with Section 2.2, Application Summary Tables.

#### C. RULES OF PROCEDURE

The Technical Review Committee shall adopt rules of procedure, which shall be available for inspection by members of the general public on the Town's website and in the offices of the Planning Department. The rules of procedure shall describe the Committee's operating procedures, composition, leadership provisions, and other relevant information not already included in this Ordinance.

### 1.8.7 TOWN STAFF

#### A. PLANNING DIRECTOR

The Planning Director shall have the responsibilities for decision making, recommendations, and comments on applications in accordance with Section 2.2, Application Summary Tables, as well as the following other powers and duties:

1. To preside over the Technical Review Committee;
2. To conduct pre-application conferences;
3. To enforce the provisions of this Ordinance, including entering any building, structure, or premises, as provided by law, to perform any duty imposed by this Ordinance;
4. To apply remedies for violations of this Ordinance;
5. To maintain the Official Zoning Map and related materials;
6. To process development applications and prepare staff reports as indicated in this Ordinance;
7. To maintain public records pertaining to this Ordinance and to make those records available to members of the public upon request;
8. To maintain rules of procedures for each review authority in this Ordinance;
9. To provide technical assistance to review authorities, upon request; and
10. To carry out any other powers and duties delegated by the Town Council that are consistent with this Ordinance and State law.

#### B. BUILDING INSPECTOR INSPECTIONS DIRECTOR<sup>1</sup>

The Building Inspector Inspections Director shall have the responsibilities for decision making, in accordance with Section 2.2, Application Summary Tables.

#### C. ENGINEERING DIRECTOR

The Engineering Director shall have the responsibilities for decision making, recommendations, and comments, on applications in accordance with Section 2.2, Application Summary Tables, as well as the following:

1. The Engineering Director shall provide comments on Development Agreements; and
2. The Engineering Director shall perform the duties of the Floodplain Administrator and Stormwater Administrator.

<sup>1</sup> See STN#112

#### F. DELEGATION OF AUTHORITY

1. Whenever a provision of this Ordinance requires or authorizes a Town staff or designated official to take some action or perform some duty, the Town staff or designated official may designate, delegate, or authorize professional-level subordinates to perform the act or duty unless the terms of the provision specifically provide otherwise.
2. For the purposes of this section, "professional-level subordinate" shall mean another person employed by the Town who meets the Town's minimum qualifications for the position, and has the minimum amount of experience or professional authority reasonably necessary to execute or undertake the designated action, in the sole opinion of the delegating Town staff member or official.

#### G. APPEAL OF TOWN STAFF DECISIONS TO THE BOARD OF ADJUSTMENT

1. Except for the Building Inspector, appeals of decisions or actions by a Town staff member shall be to the Board of Adjustment in accordance with Section 2.3.2, Appeal.
2. Appeals of decisions or actions of the Building Inspector/Inspections Director shall be to the North Carolina Commissioner of Insurance in accordance with applicable State law.

## 1.9 SEVERABILITY

### 1.9.1 INVALIDATION

Should any section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect, impair, or invalidate the validity of the remaining parts of this Ordinance which can be given effect without the invalid provision.

### 1.9.2 PREJUDICIAL APPLICATION

Should any section, sentence, clause, phrase, or word of this Ordinance be held invalid or unconstitutional in its application to a particular case, such decision shall not affect or prejudice its application to other cases.

### 1.9.3 LAWFUL PRESUMPTION

There shall be a conclusive presumption when a review authority authorizes regulatory action, that the review authority would not have authorized the action except in the belief that such action was lawful.

## 1.10 TRANSITIONAL PROVISIONS

The standards in this subsection address existing violations, nonconformities, and applications in process at the time this Ordinance is made effective.

### 1.10.1 PRIOR AND PENDING APPLICATIONS

#### A. PRIOR APPROVAL

1. Any development approvals granted before January 2, 2024, shall remain valid until their expiration date.
2. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired.
3. If an approval expires or is revoked (e.g., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall be applied for in accordance with the procedures and standards of this Ordinance.

**G.** Numbers in brackets signify table notes, which are found at the bottom of the table (the table bottom may be on a subsequent page).

**TABLE 2.2.1: APPLICATION TYPES TABLE**

Process Type: see [Section 2.2.3, Process Diagrams](#)

Pre-Application Conference: M = Mandatory; O = Optional; N/A = Not Applicable

Type of Action: C = Comment; R = Recommendation; D = Decision; A = Appeal

Type of Public Hearing: ( ) = Legislative; | | = Evidentiary

[#] = Table Note (see end of table)

APPLICATION TYPE	UDO SECTION	PROCESS TYPE	PRE-APP. CONF.	TECH. REVIEW COMMITTEE	TOWN STAFF [1]			PLANNING BOARD	TOWN COUNCIL	BOARD OF ADJUSTMENT	SUPERIOR COURT
					BUILDING INSPECTIONS DIRECTOR	ENGINEERING DIRECTOR	PLANNING DIRECTOR				
Administrative Adjustment	2.3.1	II	O	C	•	•	D	•	•	A	•
Appeal	2.3.2	III	O	•	•	•	•	•	•	D	A
Annexation	2.3.3	IV	O	C	•	•	R	•	(D)	•	A
Building Permit [2]	2.3.4	I	N/A	•	D	•	•	•	•	•	•
Certificate of Occupancy [2]	2.3.5	I	N/A	•	D	•	•	•	•	•	•
Conditional Rezoning [3]	2.3.6	IV	M	•	•	•	•	R	(D)	•	A
Conservation Subdivision [4]	2.3.7	II	M	C	•	•	D	•	•	A	•
Conventional Rezoning	2.3.8	IV	M	C	•	•	•	R	(D)	•	A
Determination [5]	2.3.9	I	O	•	•D	D	D	•	•	A	•
Development Agreement	2.3.10	IV	O	C	•	C	C	•	(D)	•	A
Driveway Permit	2.3.11	I	O	•	•	D	•	•	•	A	•
Exempt Subdivision	2.3.12	I	N/A	•	•	•	D	•	•	A	•
Fee-in-Lieu [6]	2.3.13	II	O	C	•	D	D	•	•	A	•
Floodplain Permit	2.3.14	I	O	•	•	D	•	•	•	A	•



### TABLE 2.2.1: APPLICATION TYPES TABLE

Process Type: see [Section 2.2.3, Process Diagrams](#)

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[#] = Table Note (see end of table)

APPLICATION TYPE	UDO SECTION	PROCESS TYPE	PRE-APP. CONF.	TECH. REVIEW COMMITTEE	TOWN STAFF [1]			PLANNING BOARD	TOWN COUNCIL	BOARD OF ADJUSTMENT	SUPERIOR COURT
					BUILDING INSPECTIONS DIRECTOR	ENGINEERING DIRECTOR	PLANNING DIRECTOR				
Land Disturbance Permit <sup>2</sup>	2.3.15	I	MO	•	•	D	•	•	•	A	•
Limited Subdivision	2.3.16	I	O	•	•	•	D	•	•	A	•
Major Subdivision	2.3.17	II	M	C	•	•	D	•	•	A	•
Minor Subdivision	2.3.18	II	O	C	•	•	D	•	•	A	•
Performance Guarantee [7]	2.3.19	II	O	C	•	D	D	•	D	D	A
Sign Permit [8]	2.3.20	I	O	•	•	•	D	•	•	A	•
Site Plan [9]	2.3.21	II	M	C	•	•	D	•	•	A	•
Special Use Permit [10]	2.3.22	III	M	•	•	•	•	•	•	D	A
Stormwater Permit	2.3.23	I	O	•	•	D	•	•	•	A	•
Street Renaming/ Closure	2.3.24	IV	M	C	•	•	•	R	(D)	•	A
Temporary Permit	2.3.25	II	O	C	•	C	D	•	•	A	•
Text Amendment	2.3.26	IV	O	C	•	•	C	R	(D)	•	A
Transportation Impact Analysis	2.3.27	I	M	•	•	D	C	•	•	A	•
Tree Clearing Certificate	2.3.28	II	O	C	•	•	D	•	•	A	•
Variance [11]	2.3.29	III	M	•	•	•	•	•	•	D	A

<sup>2</sup> See STN#109



### TABLE 2.2.1: APPLICATION TYPES TABLE

Process Type: see [Section 2.2.3, Process Diagrams](#)

Pre-Application Conference: M = Mandatory; O = Optional; N/A = Not Applicable

Type of Action: C = Comment; R = Recommendation; D = Decision; A = Appeal

Type of Public Hearing: ( ) = Legislative; | | = Evidentiary

[#] = Table Note (see end of table)

APPLICATION TYPE	UDO SECTION	PROCESS TYPE	PRE-APP. CONF.	TECH. REVIEW COMMITTEE	TOWN STAFF [1]			PLANNING BOARD	TOWN COUNCIL	BOARD OF ADJUSTMENT	SUPERIOR COURT
					BUILDING INSPECTIONS DIRECTOR	ENGINEERING DIRECTOR	PLANNING DIRECTOR				
Vested Rights Certificate	2.3.30	III	O	•	•	•	R	•	•	D	A
Zoning Compliance Permit	2.3.31	I	O	•	•	•	D	•	•	A	•

#### NOTES:

[1] Decision-making authority may be delegated in accordance with [Section 8.2.8, Delegation of Authority](#).

[2] Appeals are filed with the North Carolina Commissioner of Insurance.

[3] In cases where a Conditional Rezoning application includes a Concept Plan, the TRC shall review the plan prior to consideration by the Planning Board.

[4] Approval of a Conservation Subdivision also requires approval of a Major Preliminary Plat.

[5] The Engineering Director shall make determinations on matters pertaining to stormwater, erosion control, and infrastructure requirements.

[6] The review authority responsible for making the decision on the associated development application shall also be responsible for making the decision on a Town-mandated Fee-In-Lieu request.

[7] The review authority responsible for making the decision on the associated development application shall also be responsible for making the decision on a Performance Guarantee request. Requests for Performance Guarantees filed after an associated application approval shall be decided by the Planning Director.

[8] Alternative Sign Plan requests shall be reviewed and decided by the [Planning Director](#) [Town Council](#).

[9] Site Plans that include changes to or extension of public infrastructure shall include construction drawings, which shall be decided by the Engineering Director.

[10] The TRC shall review the Concept Plan prior to consideration by the Board of Adjustment.

[11] The Environmental Management Commission shall decide Major Water Supply Watershed and Riparian Buffer Variance applications.

## 2.2.2 SUBDIVISION TYPES

The Subdivision Types Table below identifies the range of subdivision types addressed by this Ordinance, including details on the maximum number of lots that may be created, minimum tract size before division, whether or not the subdivision involves the extension of public infrastructure, and whether or not the lots in the subdivision must comply with the zoning district dimensional standards. Each subdivision process is described in more detail in [Section 2.3, Application Types](#).



## 2.3 APPLICATION TYPES

### 2.3.1 ADMINISTRATIVE ADJUSTMENT

#### A. APPLICABILITY

1. Except where otherwise prohibited, an Administrative Adjustment may be requested for a modification or deviation to any of the following:
  - a. A zoning district dimensional standard in Chapter 3, Districts.
  - b. A numeric use-specific standard in Chapter 4, Land Uses.
  - c. A numeric requirement in Chapter 5, Standards.
2. In no instance shall an Administrative Adjustment application seek to reduce any of the following:
  - a. The required minimum lot area in a zoning district;
  - b. Increases in the maximum allowable residential density on a lot;
  - c. Reduce the minimum required separation distance between two use types;
  - d. The requirements specified in a transportation impact analysis;
  - e. Reductions to the standards pertaining to flood damage prevention, water supply watershed protection, ~~or riparian buffer protection~~; or
  - f. Reductions to required infrastructure standards, including streets, potable water, or wastewater system requirements.
3. Development subject to a Variance shall not also be subject to an Administrative Adjustment.

#### B. AMOUNT OF ADJUSTMENT

An Administrative Adjustment may allow a deviation from a numeric standard in this Ordinance in accordance with the amount specified in Table 2.3.1, Maximum Adjustment Amount.

**TABLE 2.3.1: MAXIMUM ADJUSTMENT AMOUNT**

LOCATION OR TYPE OF DEVELOPMENT	MAXIMUM PERMITTED AMOUNT OF ADJUSTMENT
Establishment of a new principal building on a non-conforming lot of record	50% (setbacks only)
New development or redevelopment within the Downtown zoning district	15%
Redevelopment within all zoning districts except Downtown	10%
New development within all zoning districts except Downtown	5%

#### C. PROCESS TYPE

Type II (see Section 2.2.3, Process Diagrams), including comment by the Technical Review Committee.



### 2.3.3 ANNEXATION

#### A. APPLICABILITY

1. The Town may review and decide voluntary Annexation petitions from:
  - a. The owners of land that is contiguous with the Town's primary corporate limits; and
  - b. The owners of land that is not contiguous to the primary corporate limits when the proposed satellite annexation complies with the following standards:
    - i. The area must be so situated that the Town will be able to provide the same services as it provides within its primary corporate limits; and
    - ii. The nearest point on the proposed satellite annexation is not more than three miles from the primary corporate limits of the Town; and
    - iii. No portion of the land proposed for annexation is closer to the contiguous corporate limits of another municipality unless the land is subject to an approved annexation agreement; and
    - iv. If the land proposed for annexation is part of a recorded subdivision as defined in NCGS§160D-802, all lots in the recorded subdivision are part of the annexation petition; and
    - v. The area within the proposed satellite annexation, when added to the area within all other satellite annexations by the Town of Clayton, may not exceed ten percent of the area within the primary corporate limits of the Town.
2. The Town may accept voluntary Annexation petitions from landowners that do not meet the criteria in sub-section (1) above, but may not decide them until the application is consistent with sub-section (1) above.

#### B. APPLICATION

1. The Annexation petition shall be signed by all the owners of land proposed for annexation.
2. An Annexation petition shall include a signed statement declaring whether or not any vested right with respect to the land subject to the petition has been established under NCGS§160D-108.
3. The application shall identify the volunteer fire district where the land subject to the petition is located.
- ~~3.4.~~ An annexation petition shall not require a neighborhood meeting to be conducted prior to submittal of the petition.

#### C. PROCESS TYPE

Type IV (see Section 2.2.3, Process Diagrams), except for the following:

1. Following receipt of an Annexation petition the Town Council shall direct the Town Clerk to investigate the sufficiency of the petition.
2. The Town Clerk shall investigate and certify whether the petition is legally sufficient. Only legally sufficient petitions shall be considered by the Town.
3. The Planning Director shall review the petition and comment on the Town's ability to provide municipal services prior to consideration of the petition's legal sufficiency by the Town Council.
4. The Town shall notify the applicable fire district where the land is located.
5. Following investigation by the Town Clerk and the Planning Director, the Town Council shall determine if the petition is legally sufficient. If the petition is determined to be legally sufficient, the Town Council shall schedule a public hearing to consider the petition.
6. The Planning Board shall not review the application.
7. If the annexation petition is approved, the applicant shall be responsible for preparation of a plat suitable for recording with the Register of Deeds to document the annexation.

## 2.3.4 BUILDING PERMIT

### A. APPLICABILITY

Unless exempted in accordance with the North Carolina General Statutes or the State Building Code(s), no construction, reconstruction, addition, alteration, repair, movement to another site, removal, demolition of any building or structure, or changes in use of an existing development triggering the need for application of a different set of building code requirements shall occur until a Building Permit is approved in accordance with the procedures and standards of this section and Chapter 150 of the Clayton Town Code of Ordinances.

### B. EXEMPTIONS

The following forms of development are exempted from the requirement to obtain a Building Permit, but shall be subject to the standards in [Section 2.3.31, Zoning Compliance Permit](#):

1. Storage and secondary buildings that serve a residential principal use, of 12 linear feet or less in length on any dimension, and do not include electrical service or running water;
2. Patios and at-grade walkways;
3. Playground equipment and play structures provided as secondary uses to an individual residential dwelling;
4. Ornamental or other pools with depths of less than 24 inches (any pools with water depths exceeding 24 inches are required to obtain a Building Permit);
5. Fences or privacy walls of six feet in height or less, except that all retaining walls shall require a Building Permit; or
6. Other development exempted from building permit requirements by the Town or by State law.

### C. PROCESS TYPE

Type I (see [Section 2.2.3, Process Diagrams](#)).

### D. REVIEW CRITERIA

An application for a Building Permit shall be decided by the [Building Inspector/Inspections Director \(or a designee\)](#) in accordance with [Section 2.4.7, Staff Review and Action](#), and all of the following:

1. The applicable sections of the State Building Code(s);
2. The standards in NCGS§160D-1110;
3. Any applicable requirements of the Johnston County Health Department;
4. The Site Plan, if applicable;
5. The Zoning Compliance Permit;
6. All other standards or conditions of any prior, applicable permits, and development approvals; and
7. All other applicable requirements of this Ordinance, Town policy, State law, and federal law.
8. In cases where commencement or completion of development proposed in a Building Permit application requires infrastructure to be in place and such infrastructure is not in place when required, then a life/safety plan for protecting life/safety shall be filed with an application for a Building Permit.

### E. SEQUENCE

A Building Permit application may be submitted simultaneously with another application but shall be processed in accordance with [Section 2.4.12, Simultaneous Processing](#).



#### **F. EFFECT**

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Approval of a Building Permit authorizes the commencement of on-site or off-site construction activities.

#### **G. AMENDMENT**

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A Building Permit application may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

#### **H. EXPIRATION**

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1. A building permit shall expire and become null and void if the development it authorizes is not substantially commenced within six months of the permit issuance.
2. A building permit shall expire if work is discontinued for a period of 12 months after work has commenced.

#### **I. VESTING**

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1. See Section 1.11.4B, Issuance of a Building Permit.
2. In cases when a Building Permit is associated with a site-specific vesting plan, the vesting period of the Building Permit shall be the same as the development in the associated site-specific vesting plan.

#### **J. APPEAL**

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An appeal of a decision on a Building Permit shall be filed with the North Carolina Commissioner of Insurance, in accordance with NCGS§160D-1127.



## 2.3.5 CERTIFICATE OF OCCUPANCY

### A. APPLICABILITY

Except where exempted by Section 2.3.4B, Exemptions, no land, newly erected building or structure, or existing building or structure that has been moved or enlarged or changed in use shall be occupied or used until a Certificate of Occupancy certifying that the land, building, or structure, and its use complies with this Ordinance and the applicable standards of the State Building Code(s) is issued in accordance with this section and Chapter 150 of the Clayton Town Code of Ordinances.

### B. EXEMPTIONS

Development exempted from a Building Permit in accordance with Section 2.3.4B, Exemptions, shall also be exempted from this section.

### C. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

### D. REVIEW CRITERIA

An application for a Certificate of Occupancy shall be decided by the Building Inspector Inspections Director in accordance with Section 2.4.7, Staff Review and Action, and the degree to which the land, building, structure, or proposed use complies with:

1. All relevant standards of this Ordinance;
2. Any other applicable Town requirements;
3. All applicable conditions of approval;
4. The Building Permit;
5. The applicable State Building Code(s) requirements; and
6. All applicable State and federal requirements.

### E. TEMPORARY CERTIFICATE OF OCCUPANCY

1. A Temporary Certificate of Occupancy may be issued permitting occupancy for a stated period of time of either the entire building or property or of specified portions of the building if the Inspections Director finds that the building or property may safely be occupied prior to the completion of development activity.
2. A temporary Certificate of Occupancy may be issued in cases where the Town has mandated, or the applicant has requested and the Town has approved, payment of a fee-in-lieu. In no instance shall a final Certificate of Occupancy be issued by the Town in cases where payment of fee-in-lieu is required, but has not taken place.
3. The Planning Director may require the applicant to submit a Performance Guarantee (see Section 2.3.19, Performance Guarantee), in an amount necessary to ensure that any work not completed as specified in the development approval will be completed within the specified timeframe for a Certificate of Occupancy. A Performance Guarantee, submitted in accordance with Section 2.3.19, Performance Guarantee, shall be required for any incomplete infrastructure or other required site features.

### F. SEQUENCE

1. Applications for a Certificate of Occupancy may not be filed until work authorized by other approvals has been completed, or an application for a Performance Guarantee has been approved.

- v. Changes to the configuration of parking areas, but not the number of parking spaces and provided the parking area continues to meet Ordinance requirements for access and circulation;
  - vi. Changes to the configuration of landscape yards, including types of landscaping or screening materials, provided minimum width and planting requirements continue to be met;
  - vii. Changes to the proposed building elevation or facade, including materials, provided that the change retains the same general architectural character, remains consistent with the design parameters established in the original approval, and provided the overall height of the building is not increased; and
  - viii. Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.
- d. In no instance shall a minor modification include any changes to:
- i. The range of permitted uses;
  - ii. The overall density of the development; or
  - iii. Site features that require the application of professional judgment or discretion by a licensed landscape architect, architect, or professional engineer.

## 2. MAJOR MODIFICATIONS

- a. Changes that materially affect the basic configuration of the development, a condition of approval, or that exceed the scope of a minor change modification are considered major modifications.
- b. Major modifications include, but are not limited to:
  - i. Increases in building height;
  - ii. Changes in uses;
  - iii. Changes in density or intensity;
  - iv. Decreases in open space;
  - v. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected);
  - vi. Changes to the location of entrances or driveways by more than 100 feet;
  - vii. Change in the location of any public easement; and
  - viii. Changes to site features that require the application of professional judgment or discretion by a licensed landscape architect, architect, or professional engineer.
- c. Major modifications must be reviewed and considered only in accordance with the procedures and standards established for the original application approval.

## P. EXPIRATION

1. Not applicable.
2. In the event the development contemplated in a Conditional Rezoning application is not substantially commenced within three years from the date of the approval, the Town Council may initiate a rezoning application to return the land to its prior or to some other appropriate zoning district designation.

## Q. VESTING<sup>3</sup>

1. The establishment of a conditional zoning district shall run with the land, but a Concept Plan approval associated with a Type 3 Conditional Rezoning application shall not run with the land, and shall be subject to Section 1.11.4D, Site-Specific Vesting Plan.
2. Applicants seeking a longer vesting term may file an application in accordance with Section 2.3.30, Vested Rights Certificate.

<sup>3</sup> See STN#27



3. The decision shall be based on the legislative discretion of the Town Council, taking into consideration the recommendation of the Planning Board, citizen comments, if provided, and the standards in [Section 2.4, Review Procedures](#).
4. In making its decision, the Town Council shall adopt a written statement of reasonableness and consistency with the Town's adopted policy guidance in accordance with NCGS§160D-605.

#### G. CITIZEN COMMENT

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

#### H. APPLICATION REVISION

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1. In no instance shall a Conventional Rezoning application be converted into a Conditional Rezoning application.
2. Nothing shall limit the Town Council from approving a more restrictive or less intense zoning district than requested by the applicant. In cases where the Town Council decides to approve a more restricted or less intense zoning district than requested, the application shall not require remand back to the Planning Board or any additional public notification.

#### I. REVIEW CRITERIA<sup>4</sup>

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The advisability of approval of a Conventional Rezoning application is a matter committed to the legislative discretion of the Town Council, and is not controlled by any one factor. In determining whether to adopt or deny a rezoning application, the Town Council may weigh the relevance of [and consider](#) the following:

1. Whether the proposed rezoning advances the public health, safety, or welfare;
2. Whether and the extent to which the proposed rezoning is appropriate for its proposed location, and is consistent with the purposes, goals, objectives, and policies of the Town's adopted policy guidance;
3. Whether an approval of the rezoning is reasonable and in the public interest; and
4. Other factors, as the Town Council may determine to be relevant.

#### J. DESIGNATION

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1. The Planning Director shall make changes to the Official Zoning Map promptly after approval of a Conventional Rezoning application by the Town Council.
2. In cases when a rezoning application is deemed inconsistent with adopted policy guidance, but is approved by the Town Council, the future land use map shall be amended with a note referencing the rezoning application approval.

#### K. SEQUENCE

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A Conventional Rezoning application may be filed with an Annexation petition in accordance with NCGS§§160A-31 or 160A-58.1, but no other application types shall be submitted with a rezoning application.

#### L. EFFECT

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1. Lands subject to an approved Conventional Rezoning application shall be subject to all the applicable standards in this Ordinance, which shall be binding and shall run with the land.

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<sup>4</sup> See STN#101



## 2.3.9 DETERMINATION

### A. APPLICABILITY<sup>5</sup>

#### 1. ENGINEERING DIRECTOR<sup>6</sup>

The Engineer Director shall provide determinations on the portions of this Ordinance pertaining to infrastructure (water lines, sewer lines, etc.); construction-related aspects associated with streets, sidewalks, and driveways; land disturbance; special flood hazard area standards; stormwater requirements; ~~and~~ watershed-related provisions, and the Town's Engineering Specifications and Design Manual.

#### 2. INSPECTIONS DIRECTOR

The Inspections Director shall provide determinations on aspects related to the State Building Code or the Residential Building Code.

#### 2.3. PLANNING DIRECTOR

The Planning Director shall determine all other aspects of this Ordinance, including boundaries on the Official Zoning Map, undefined terms, unlisted use types, prior conditions of approval, the vesting status of development.

### B. DETERMINATIONS DISTINGUISHED

#### 1. FORMAL DETERMINATIONS

- a. Formal determinations shall be in writing and prepared in accordance with this section.
- b. Only formal determinations are subject to appeal as an administrative decision.

#### 2. ADVISORY OPINIONS

- a. Any written or oral opinions that do not meet the strict requirements of this section are advisory opinions.
- b. Advisory opinions have no binding effect and are not considered formal determinations subject to appeal.

### C. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

### D. DECISION

1. The Planning Director or Engineering Director, as appropriate, shall provide determinations of this Ordinance or the Official Zoning Map in accordance with Section 2.4, Review Procedures.
2. Prior to rendering a determination, a Town staff member may consult with the Town Attorney or other Town officials.

### E. REVIEW CRITERIA

#### 1. OFFICIAL ZONING MAP BOUNDARIES

Interpretation of district boundaries on the Official Zoning Map shall be in accordance with the standards in Section 3.8.3, Interpretation of Map Boundaries, and consistent with the Town's adopted policy guidance.

<sup>5</sup> See STN#112

<sup>6</sup> See STN#115

## 2.3.11 DRIVEWAY PERMIT

### A. APPLICABILITY<sup>7</sup>

1. All lots seeking to gain vehicular access to a Town-maintained or North Carolina Department of Transportation (NCDOT)-maintained street via a driveway shall obtain a driveway permit in accordance with this section. Lots seeking to obtain vehicular driveway access to an NCDOT-maintained street shall also obtain NCDOT approval prior to issuance of a Driveway Permit. Town staff will inform applicants of the need to contact the NCDOT for a prior NCDOT approval.
2. Lots seeking to gain vehicular access to a private street are not required to obtain a Driveway Permit from the Town, but shall obtain a Zoning Compliance Permit (see Section 2.3.31, Zoning Compliance Permit), and though provide proof of permission from the owner of the street ~~shall be required~~ if no public access easement is recorded or public access agreement is in place.

### B. APPLICATION<sup>8</sup>

An application for a Driveway Permit shall be accompanied by plans or drawings prepared by a development or construction professional engineer familiar with preparing such plans or drawings. Plans or drawings shall demonstrate compliance with all applicable requirements of this Ordinance, other Town documents, and NCDOT's Policy on Street and Driveway Access to North Carolina Highways, if applicable.

### C. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

### D. REVIEW CRITERIA

An application for a Driveway Permit shall be decided by the Engineering Director, in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. The applicable requirements of the Town's Engineering Specifications and Design Manual;
2. The Town Code of Ordinances or other policy documents;
3. Any applicable requirements of this Ordinance, including but not limited to Section 6.1, Access and Circulation;
4. NCDOT's Policy on Street and Driveway Access to North Carolina Highways, if applicable; and
5. All other standards or conditions of any prior, applicable permits, and development approvals.

### E. SEQUENCE

Applications for a Driveway Permit may be submitted with a Site Plan, Subdivision, or Zoning Compliance Permit, but the Driveway Permit shall be approved after these permit types.

### F. INSPECTION

Inspections of the proposed driveway or driveway apron if the driveway is unpaved shall be conducted by the Engineering Director or a designee after the forms demarking the driveway are in place and again after driveway construction is complete but before the approval is finalized.

<sup>7</sup> See STN#107

<sup>8</sup> See STN# 111

**2.3.16 LIMITED SUBDIVISION****A. APPLICABILITY<sup>9</sup>**

1. The standards in this section shall apply to divisions of land meeting all the following criteria:
  - a. The proposed division of land is not exempted from the subdivision standards of this Ordinance in accordance with NCGS§160D-802;
  - b. The proposed division will not result in more than three lots (including any residual or “parent” parcel), with each lot meeting the applicable dimensional requirements of the zoning district where located;
  - c. The area of land subject to the division shall be comprised of at least five acres under common ownership;
  - d. No land included in an ~~expedited~~ limited subdivision application shall have been the subject of an ~~expedited~~ limited subdivision application approval within the preceding ten years;
  - e. No extension of public infrastructure (streets, water, or sewer) is proposed; and
  - f. A proposed permanent means of ingress and egress to each lot is recorded.
2. Divisions of land not meeting all these standards shall be reviewed as a Major or Minor Subdivision, as appropriate.

**B. APPLICATION**

1. Applications for a Limited Subdivision shall include a plat prepared by a registered land surveyor or professional engineer licensed to practice in North Carolina.
2. Applications for a Limited Subdivision served by on-site wastewater systems shall include an evaluation from the appropriate county health department indicating that an on-site wastewater system may be used on each lot included in the subdivision.

**C. PROCESS TYPE**

Type I (see Section 2.2.3, Process Diagrams).

**D. REVIEW CRITERIA**

An application for a Limited Subdivision shall be decided by the Planning Director in accordance with Section 2.4.7, Staff Review and Action, and the following:

1. The Limited Subdivision plat is on a sheet or sheets suitable for recording with the Register of Deeds in the county where the subdivision is located;
2. The Limited Subdivision plat is prepared and sealed by a licensed professional land surveyor or licensed professional engineer;
3. The Limited Subdivision plat complies with all applicable standards in this Ordinance and NCGS§47-30;
4. The Limited Subdivision complies with all applicable water supply watershed protection provisions, if located within the (WPOD) Watershed Protection Overlay District;
5. The Limited Subdivision complies with all applicable requirements in Section 6.15, Stormwater;
6. The Limited Subdivision plat includes all required certifications and declarations;
7. The applicant has secured all required State and federal permit approvals;

<sup>9</sup> See STN#28

- g. All required easements and rights-of-way are properly depicted on the Final Plat;
- h. If no public wastewater service is associated with the Major Subdivision, all lots have been certified by the county Health Department (as appropriate) as capable of accommodating the wastewater generated from the proposed use;
- i. The Final Plat is in substantial conformance with the associated Preliminary Plat(s);
- j. The applicant has secured all required State, federal, and other applicable County permit approvals;
- k. The Final Plat complies with all standards and conditions of any applicable permits and development approvals; and
- l. The Final Plat complies with all other applicable requirements in this Ordinance and Town policy.

### 3. RECORDATION<sup>10</sup>

- a. Once a Final Plat is approved, a signed statement by the Planning Director shall be entered on the face of the plat. The Final Plat may not be recorded without this and all other required certifications.
- b. A Final Plat may not be recorded until after public infrastructure has been accepted by the Town.
- c. Following certification, the applicant, or the Town staff, as appropriate, shall record the Final Plat and all associated protective covenants and deed restrictions in the office of the Register of Deeds in the county where the development is located. Failure to record the final plat in accordance with Section 2.3.17G.7, Expiration, shall render the plat null and void.
- d. In cases where the applicant records the final plat, the applicant shall be responsible for delivering a digital copy of the recorded Final Plat to the Planning Department. Failure to deliver the digital copy in accordance with Section 2.3.17G.7, Expiration, shall may render the plat null and void interfere with the Town's ability to review any subsequent development applications associated with the land identified in the Final Plat.

### 4. ACCEPTANCE OF PUBLIC INFRASTRUCTURE

- a. Approval and recordation of a Final Plat constitutes an offer of dedication by the owner of the right-of-way of each public street and any other public infrastructure shown on the Plat.
- b. Approval of the Final Plat does not constitute acceptance for maintenance responsibility of any improvements within a right-of-way or easement and the Town assumes no responsibility to open, operate, repair, or maintain any improvements until it is in the public interest to do so.
- c. Improvements within rights-of-way or easements, such as streets, drainage facilities, or sidewalks may be accepted for maintenance by the Town, when deemed appropriate, in the Town's sole discretion.
- d. 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 the extraterritorial jurisdiction.
- e. Acceptance of dedication of lands or facilities located within the extraterritorial 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,

<sup>10</sup> See STN#29

## 2.3.19 PERFORMANCE GUARANTEE

### A. PURPOSE AND INTENT

1. These standards create the additional flexibility necessary for lots in a subdivision to be conveyed or for issuance of a Building Permit to commence with development prior to completion of all required infrastructure or site improvements, subject to the prior approval of the Town, and provided funds have been reserved for completion of these features.
2. These provisions ensure that funds are available for the Town's use to complete required public infrastructure or private site features in the event an applicant is unable to do so.

### B. ELIGIBLE FEATURES<sup>11</sup>

1. Performance Guarantees shall be configured and managed in accordance with the standards in this section. Acceptance of a Performance Guarantee is in the sole discretion of the Town, which is under no obligation to accept a request for or approve a Performance Guarantee for any feature or under any circumstance.
2. Requests for submittal of a Performance Guarantee instead of completion in advance of ~~subdivision~~ final plat approval or Building Permit issuance may be filed with the Town for any of the following public infrastructure elements or private site features:
  - a. Sidewalks, multi-use paths, and greenways; **AMENDED 4.15.24 (UDOTA1-24)**
  - b. The final lift of asphalt on a Town-maintained public street;
  - c. Street lights and on-site exterior lighting;
  - d. Active and passive recreation features located within open space set-aside;
  - e. Private stormwater control measures; and
  - f. Placement or replacement of required vegetation and landscaping, except when required as part of erosion control measures.

### C. INELIGIBLE FEATURES<sup>12</sup>

The following forms of public infrastructure may not be subject to a Performance Guarantee, and shall be completed, dedicated to the Town, and inspected prior to conveyance of lots or issuance of a Certificate of Occupancy:

1. Public potable water;
2. Public sanitary sewer;
3. Functional fire protection infrastructure;
4. The base and initial courses of asphalt on a street;
5. Drainage facilities associated with a street right-of-way;
6. Public stormwater control measures;
7. Curb and gutter; and
8. Street signs and traffic control signals;
- ~~8-9.~~ Land disturbance features related to sedimentation or erosion control.

### D. STORMWATER AND EROSION CONTROL FACILITIES

Stormwater control measures and erosion control facilities shall comply with the specific provisions for Performance Guarantees associated with these features in accordance with NCGS§160D-804 rather than the standards in this section.

<sup>11</sup> See STN#114

<sup>12</sup> See STN#114

**E. FORM**

1. The form of a Performance Guarantee shall take one of the following forms, at the sole discretion of the applicant:
  - a. A surety bond issued by a firm licensed to operate in the State of North Carolina;
  - b. A letter of credit issued by a financial institution licensed to operate in the State of North Carolina; or
  - c. Cash or certified check; or
  - d. Another form of guarantee that provides equivalent security to the forms listed above, as determined by the Town.
2. In cases where more than one facility or site feature is requested to be subject to a Performance Guarantee, the applicant may provide a single, consolidated Performance Guarantee for all facilities or site features. In no instance shall Performance Guarantees associated with private stormwater control mechanisms or sedimentation control be consolidated with any other Performance Guarantee.
3. If cash or other instrument is deposited in escrow with a financial institution, an agreement between the financial institution and the developer shall be filed with the Town guaranteeing the following:
  - a. That the escrow account shall be held in trust until released by the Town and may not be used or pledged by the developer for any other matter during the term of the escrow;
  - b. That in case of a failure on the part of the developer to complete or repair the improvements, the financial institution shall, upon notification by the Town, immediately pay the funds deemed necessary by the Town to complete or repair the improvements up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town; and
  - c. The financial institution holding the cash or other instrument shall indicate to the Town its notification requirements for release or payment of funds.

**F. PROCESS TYPE<sup>13</sup>**

1. Requests for provision of a Performance Guarantee shall be decided in the same manner as is used by the review authority for deciding the related application type based on the standards in [Section 2.4, Review Procedures](#).
2. In cases where a request for a Performance Guarantee is filed after approval of a development application, or there is a request for renewal or extension, the [Planning Director](#) [Town Council](#) shall decide the Performance Guarantee [request in accordance with Section 2.4.7, Staff Review and Action, and Section 2.4, Review Procedures](#).

**G. REVIEW CRITERIA**

1. An application for a Performance Guarantee shall include a map or plan showing the infrastructure and site improvements to be subject to a Performance Guarantee.
2. A Performance Guarantee application may be approved if the application complies with the following:
  - a. The request is for an eligible facility or site feature;
  - b. The request is in the form and the amount required;
  - c. The term of the guarantee is for the minimum period of time necessary; and

<sup>13</sup> See STN# 114

## 2.3.20 SIGN PERMIT

### A. APPLICABILITY<sup>14</sup>

1. All signs except those exempted from the sign regulations in Section 6.13.3, Exemptions, shall obtain a Sign Permit in accordance with this section before being erected, replaced, relocated, or altered.
2. Alterations limited to sign copy on a lawfully-established and conforming sign shall not require approval of a Sign Permit.
3. Temporary signage shall be reviewed in accordance with Section 2.3.25, Temporary Permit.
4. Establishment of new outdoor advertising after January 2, 2024, shall be prohibited. Changes to existing outdoor advertising shall be considered in accordance with Section 2.3.22, Special Use Permit.
5. Establishment of new development comprised of two or more principal buildings on one or more lots are encouraged to configure signage in accordance with a Uniform Sign Plan as a part of a Sign Permit application.
6. Applicants seeking to deviate from otherwise applicable signage provisions may request consideration of deviations in accordance with Section 2.3.20K, Alternative Sign Plan.

### B. PROCESS TYPE

Type I (see Section 2.2.3, Process Diagrams).

### C. REVIEW CRITERIA

Applications for a Sign Permit shall be decided by the Planning Director in accordance with Section 2.4.7, Staff Review and Action, and the following:

#### 1. GENERALLY

- a. The standards in Section 6.13, Signage;
- b. The sign is located on the same lot or site as the business, product, or service being advertised;
- c. The North Carolina State Building Code, including requirements for electrical service, if applicable;
- d. All standards or conditions of any prior applicable permits and developments approvals; and
- e. All other applicable requirements of this Ordinance.

#### 2. UNIFORM SIGN PLANS

Uniform Sign Plans, if submitted, shall indicate each of the following:

- a. A Uniform Sign Plan shall include measured drawings and details about the parameters of signage permitted by the Plan;
- b. If the total amount of allowable signage in the development will be apportioned in a manner that deviates from the standards in Section 6.13, Signage, and if so, how the signage will be apportioned;
- c. The maximum sign sizes by sign type, and by building type, if different;
- d. The rules for signage placement on multi-tenant buildings;
- e. The range of proposed unifying elements for signage in the development, including but not limited to style, illumination, color, material;

<sup>14</sup> See STN#31

**K. ALTERNATIVE SIGN PLAN<sup>15</sup>**

Development proposing to construct or modify existing signage in ways that do not comply with the standards in Section 6.13, Signage, shall be subject to the requirements for an alternative sign plan in accordance with this section.

**1. PURPOSE**

The alternative sign plan process is included to allow for creativity of sign design and configuration in ways that do not otherwise comply with the applicable standards of this Ordinance, but that are found to be in closer alignment with the Town's Adopted Policy Guidance or the provisions in Section 1.7, Purpose and Intent of Ordinance, than would result from the strict application of the signage provisions of this Ordinance.

**2. APPLICABILITY**

Any application for a Sign Permit may incorporate a request for an alternative sign plan configured in accordance with this section, but in no instance shall an alternative sign plan include prohibited signage identified in Section 6.13.5, Prohibited Signs.

**3. CONTENTS**

Requests for an Alternative Sign Plan shall be part of an application for a Sign Permit, and shall include all of the following:

- a. A written statement detailing the project information, the proposed alternatives being requested, and an explanation of how the proposed alternative meets the standards in Section 2.4, Review Procedures;
- b. The location of land subject to the Alternative Sign Plan;
- c. The proposed allocation of permitted sign area among tenants and any other proposed signs;
- d. The total allowable sign face area for the project;
- e. Sketches of generic sign design and appearance for each sign type provided in Pantone Matching System (PMS) colors, vinyl manufacturer and numbers, or comparable industry standard of color identification;
- f. Color specifications for each sign component shall be specified, including but not limited to sign face backgrounds, lettering, and the sign structure;
- g. A plan or other graphical depiction showing where each particular sign type is proposed;
- h. A written justification for the Alternative Sign Plan request, including how the proposed signage will result in a development that is in closer alignment with the Town's Adopted Policy Guidance or the standards in Section 1.7, Purpose and Intent of Ordinance; and
- i. Any additional information requested by the Planning Director considers necessary to measure the application's conformance with the applicable review criteria.

**4. PROCEDURE**

Type #IV (see Section 2.2.3, Process Diagrams), including comment by the Technical Review Committee.

**5. REVIEW CRITERIA**

An Alternative Sign Plan application shall be only approved provided on a finding the applicant demonstrates:

<sup>15</sup> See STN# 113

- a. The contents of the Alternative Sign Plan request are consistent with the applicable requirements of this section;
- b. The proposed sign design, size, color, illumination, and placement are compatible in style and character with any building to which the sign is to be attached, any surrounding structures, any adjoining signage on the site, and/or the district character or architectural character of the area in which it is located;
- c. The Alternative Sign Plan proposes innovative, but appropriate, use of materials and design techniques in response to unique characteristics of the specific site, if applicable;
- d. The signage envisioned by the Alternative Sign Plan application will be consistent with approved neighborhood plans, studies, or area plans; and
- e. The signage anticipated by the Alternative Sign Plan signage will result in a development that is in closer alignment with the Town's Adopted Policy Guidance or the standards in Section 1.7, Purpose and Intent of Ordinance.

## 6. CONDITIONS OF APPROVAL

The ~~Planning Director~~ **Town Council** may apply conditions to any approval of an Alternative Sign Plan in accordance with **Section 2.3.20K.6, Conditions of Approval**. Conditions may include, but are not limited to, any of the following:

- a. Specification of color(s);
- b. The number of signs;
- c. The total amount of sign face area;
- d. The location of signs;
- e. The maximum height of signs;
- f. Sign illumination; and
- g. The types of signs allowed.

## 7. AMENDMENT

Amendment of an Alternative Sign Plan approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.



3. The Engineering Director shall determine the geographic area to be included in a traffic impact analysis, which shall extend to a point the farther of:
  - a. One-half mile from the edges of the development site; or
  - b. Where the project traffic at build-out is less than 10% of the capacity of the roadway or intersection.
4. Traffic recorder and turning movement assessment locations may also have to be determined.

#### E. PROCESS TYPE

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Type I (see Section 2.2.3, Process Diagrams) except that a pre-application conference is mandatory, and the Town may require third-party review of a proposed Transportation Impact Analysis prior to deciding an application.

#### F. THIRD-PARTY REVIEW

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1. Transportation impact analyses that include State roads shall require review by the NCDOT.
2. The Engineering Director may require that an independent third party be hired by the Town at the applicant's expense to perform a required Transportation Impact Analysis, or to review a Transportation Impact Analysis filed by an applicant. The third party shall be a professional engineer licensed in the State of North Carolina to prepare such analyses, and the third party's contract shall be administered solely by the Town.
3. The Town shall determine the scope of services to be performed by a third party and receive a cost estimate from the third party for such services.
4. The applicant shall provide funds to the Town for the third-party review in accordance with the Town's fee schedule.
5. Funds for third-party review are not refundable if an applicant withdraws their application prior to third-party review.

#### G. REVIEW CRITERIA

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The Engineering Director shall ~~decide~~ ~~accept or not accept an application for~~ a Transportation Impact Analysis based on Section 2.4.7, Staff Review and Action, the findings of the third-party review (if conducted), and the following:

1. The analysis is prepared and sealed by a licensed professional engineer with expertise in traffic engineering;
2. The analysis includes a summary of findings and recommendations for mitigation based on the Town's Adopted Policy Guidance and applicable State regulations;
3. The analysis conforms with the requirements of this section and the Town's Engineering Specifications and Design Manual;
4. Full payment for all third-party review costs has been provided;
5. The analysis identifies the post-development roadway lane configurations and levels of service for signalized and unsignalized intersections within the study area;
6. The projected traffic generated by the project, combined with existing traffic, either does not exceed the desirable operating level established in the impact area as identified in Section 6.5.12, Streets, or the impacts of the project traffic are properly mitigated by on-site and off-site improvements recommended in the analysis;
7. The analysis identifies the parties responsible for any recommended improvements; and



8. The applicant is willing and able to successfully mitigate the proportional impact that the proposed development will have on the public transportation network as identified in the Transportation Impact Analysis.

#### H. SEQUENCE

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A Transportation Impact Analysis may be filed with an application for a rezoning, subdivision, Site Plan, Special Use Permit, Zoning Compliance Permit, or Building Permit, but the Transportation Impact Analysis shall be decided before these other application types.

#### I. EFFECT<sup>16</sup>

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1. An application may be denied upon the basis of the Transportation Impact Analysis even in cases where the Engineering Director accepts the analysis.

1.2. Approval of a Transportation Impact Analysis permits an applicant to file for the next kind of development approval in the sequence.

2.3. In some cases, the results of a Transportation Impact Analysis may result in an applicant amending other applications in one or more of the following ways:

- a. Changes in use type or scope to reduce the projected vehicle trips per day;
- b. The dedication of additional right-of-way;
- c. The rerouting of traffic or modifications or additions of the internal street network or proposed access and egress points;
- d. Participation in the funding of a traffic signal, intersection improvement, or other off-site transportation improvement; or
- e. Other modification determined to be necessary.

#### J. AMENDMENT

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Amendment to an approved Transportation Impact Analysis may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

#### K. EXPIRATION

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A Traffic Impact Analysis approval shall expire in accordance with the Concept Plan, Site Plan, subdivision plat, or other approval it is associated with.

#### L. VESTING

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In accordance with [Section 1.11.4C, Statutory Vested Rights](#).

#### M. APPEAL

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In accordance with NCGS§160D-405, and [Section 2.3.2, Appeal](#).

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<sup>16</sup> See STN#32



## 2.3.29 VARIANCE

### A. PURPOSE AND INTENT<sup>17</sup>

The purpose of this Variance procedure is to allow deviations from certain standards of this Ordinance when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as topographical conditions, narrowness, shallowness, or shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest. This section also includes provisions for reasonable accommodation of persons with physical disabilities and variances pertaining to the Town's special flood hazard area requirements, water supply watershed protection standards, [riparian buffer protection provisions](#), and stormwater provisions.

### B. APPLICABILITY

#### 1. VARIANCE

- a. Development that would otherwise be subject to undue and unique hardship from the applications of the standards in this Ordinance may seek relief from the standards in accordance with this section.
- b. No Variance may be sought for uses not allowed in a zoning district.
- c. No Variance may be sought that increases development density (e.g., units per acre) beyond that allowed in the zoning district where located.

#### 2. REASONABLE ACCOMMODATION

- a. In cases where the strict application of the standards of this Ordinance would deprive an eligible person of their right to equal opportunity to use a dwelling under the federal Fair Housing Act, the person may apply for a Reasonable Accommodation in accordance with this section.
- b. For the purposes of this section, an "eligible person" is a person who meets the definition of a disabled or handicapped person under federal law.
- c. A person recovering from substance abuse is considered a person with a disability or handicap provided they are not currently engaging in the illegal use of controlled substances.

### C. VARIANCES DISTINGUISHED

1. In addition to applications for a Reasonable Accommodation, this procedure recognizes the following different forms of Variance, each of which may have unique review processes and criteria:
  - a. Zoning or Subdivision Variances;
  - b. Flood Hazard Overlay Variances;
  - c. Stormwater Variances; and
  - d. Water Supply Watershed Variances. **AMENDED 4.15.24 (UDOTA1-24)**
2. Water Supply Watershed Variances shall take the form of a Minor Variance or a Major Variance. Minor Variances pertain to a relaxation, by a factor of up to 10% of any buffer, density, or built-upon area requirement under the low-density option. Major Variances pertain to any of the following:
  - a. The relaxation, by a factor greater than 10%, of any management requirement under the low-density option;

<sup>17</sup> See STN#33

- b. The relaxation, by a factor greater than five percent, of any buffer, density, or built upon area requirement under the high-density option; or
- c. Any variation in the design, maintenance, or operation requirements of an approved stormwater control measure.

#### D. APPLICATION

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1. Applications for Zoning or Subdivision Variances and Reasonable Accommodations shall be processed by the Planning Director or a designee.
2. Applications subject to a required neighborhood meeting shall include required information in accordance with [Section 2.4.4, Neighborhood Meeting](#).
3. Applications for Flood Hazard Overlay, [Riparian Buffer](#), Water Supply Watershed, and Stormwater Variances shall be processed by the Floodplain Administrator or Stormwater Administrator, as appropriate.
4. An application for Reasonable Accommodation may be made by a person with a disability or handicap, or their legal representative, or by a provider of housing for persons with disabilities or handicaps. An application for Reasonable Accommodation shall also include the following:
  - a. The basis for the claim that the applicant or persons receiving services from the applicant is considered disabled or handicapped under federal law;
  - b. The Ordinance provision from which the Reasonable Accommodation is being requested; and
  - c. An explanation of why the Reasonable Accommodation is necessary to make specific land or development available for the applicant.

#### E. PROCESS TYPE

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Type III (see [Section 2.2.3, Process Diagrams](#)) except that Major Water Supply Watershed [and Major Riparian Buffer](#) Variances shall be decided by the North Carolina Environmental Management Commission following review and recommendation by the Board of Adjustment.

#### F. DECISION

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##### 1. GENERALLY

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- a. The decision shall be based on the competent, material, and substantial evidence in the record, as supplemented by arguments presented at the evidentiary hearing, and the standards in [Section 2.4, Review Procedures](#).
- b. The decision shall be one of the following:
  - i. Approval of the Variance or Reasonable Accommodation as proposed;
  - ii. Approval of the Variance or Reasonable Accommodation with revisions; or
  - iii. Denial of the Variance or Reasonable Accommodation as proposed.
- c. Voting shall be in accordance with [Section 2.4.9C.5, Voting](#).
- d. Each decision shall be made in writing and reflect the Board of Adjustment's determination of facts and their application to the standards in this Ordinance.
- e. The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.
- f. The decision of the Board of Adjustment shall be effective upon the filing of the written decision in the offices of the Planning Department.

##### 2. WATER SUPPLY WATERSHED VARIANCE

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- a. In the case of a recommendation of approval for a Major Water Supply Watershed Variance by the Board of Adjustment, the application materials, along with the



- a. Rezoning, conditional and conventional, which would establish a more dense or intense zoning district ~~or when the Town is annexing land located outside its extraterritorial jurisdiction;~~
  - b. Street Renaming/Closures;
  - c. Special Use Permits; or
  - d. Variances.
2. Neighborhood meetings for any other kind of application identified in Table 2.2.1, Application Types Table, are optional. However, the Town Council may, by simple majority vote on a motion during a public hearing, require a neighborhood meeting to be conducted before rendering a decision on an application they are deciding.
  3. In cases of a multi-part application that includes two or more portions each requiring a neighborhood meeting, only one neighborhood meeting shall be required prior to the filing of the initial portion of the application.

## C. PROCEDURE

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In cases when a neighborhood meeting is conducted, it shall comply with the following procedures:

### 1. TIMING

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- a. The meeting shall start between the hours of 6PM and 8PM on a weekday.
- b. The meeting shall take place prior to the application being initially filed with the Town but no more than 60 days prior to the filing of the initial application.
- c. Nothing shall limit the Town Council from requiring one or more neighborhood meetings be conducted prior to the application being decided. **AMENDED 4.15.24 (UDOTA1-24)**

### 2. LOCATION

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- a. The neighborhood meeting shall take place in a location open to the general public that is as close as possible to the site where development is proposed.
- b. In the event no suitable location open to the general public is available, the meeting may take place at a Town-owned or -operated site, subject to any Town requirements for its use.
- c. Virtual neighborhood meetings may be conducted when conducted in a manner consistent with the Town's policies for virtual meetings.

### 3. NOTIFICATION

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- a. The applicant shall provide notification of the neighborhood meeting via first class mail to all landowners within 300 linear feet of the parcel(s) where development is proposed.
- b. Mailed notice shall be provided no less than ten days prior to the date of the neighborhood meeting.
- c. Landowners are advised that any required public notice of a subsequent development application will be provided in accordance with Section 2.4.8, Public Notice, which may be less than 300 feet from the parcel where development is proposed.
- d. Multiple meetings may take place, but advance notification for each meeting shall be provided in accordance with this subsection.

### 4. INFORMATION PROVIDED

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The applicant shall provide the following in the neighborhood meeting invitation:

- a. The purpose of the meeting;



#### B. PUBLIC HEARING SCHEDULING

When a development application is subject to a public hearing, the Planning Director, or a designee, shall ensure that the public hearing is scheduled for a regular meeting, or a meeting specially called for that purpose by the review authority.

#### C. PUBLIC NOTIFICATION REQUIREMENTS

1. All development applications subject to public notification shall comply with the appropriate standards in NCGS §§ [160A-31](#), [160A-58](#), 160D-406, 160D-601, 160D-602, 160D-1005, and other applicable sections of the North Carolina General Statutes.
2. Table 2.4.8, Public Notification Requirements, summarizes the requirements for public notice, but in the event of a conflict with State law, State law shall prevail.
3. In computing the required time periods, the day the notice is published, mailed, or posted shall not be included, but the day of the hearing shall be included.

**TABLE 2.4.8: PUBLIC NOTIFICATION REQUIREMENTS**

TYPE OF DEVELOPMENT APPLICATION	TYPE OF PUBLIC NOTIFICATION REQUIRED (R=REQUIRED)		
	PUBLISHED [1]	MAILED [2]	POSTED [3]
Annexation	R <a href="#">[4]</a>	<a href="#">[5]</a> R	<del>R</del>
Appeal	.	R <a href="#">[6]</a> <a href="#">[4]</a>	R
Development Agreement	R	R	R
Rezoning	R <a href="#">[5]</a> <a href="#">[7]</a>	R	R
Special Use Permit	.	R	R
Street Renaming / Closure	R <a href="#">[6]</a> <a href="#">[8]</a>	R <a href="#">[7]</a> <a href="#">[9]</a>	R <a href="#">[8]</a> <a href="#">[10]</a>
Text Amendment	R	.	.
Variance	.	R	R

**NOTES:**

[1] Notice shall be published once a week for two successive calendar weeks with the first notice published no more than 25 day nor less than 10 days before the public hearing.

[2] Notice shall be mailed to the applicant, affected property owners, and property owners of abutting land between 10 and 25 days before the public hearing.

[3] Notice shall be posted between 10 and 25 days before the public hearing.

[4] For annexations, notice shall only be required to be published once with the notice being published at least 10 days prior to the public hearing.

[5] In cases where the area being annexed is contiguous to the corporate limits but not served by a newspaper of general circulation, the Town shall provide posted notice in at least 3 locations within the area being annexed and 3 additional areas within the Town (a total of 6 locations).

[6] Mailed notice shall only be required in cases where the appeal pertains to a particular property.

[7] In the case of large-scale rezonings of 50 or more different landowners, mailed notice only provided to landowners residing outside the area of published notice circulation in accordance with NCGS § 160D-602(b).

[8] Published notice for street abandonment shall be provided once per week for 4 weeks before the hearing.



### 3.2.3 (DTNC) DOWNTOWN CORE<sup>18</sup>

#### A. DOWNTOWN CORE (DTNC) DISTRICT PURPOSE STATEMENT

The Downtown Core (DTNC) district is the Town's central business district located on the blocks abutting Main Street in the center of Town. The district includes a wide array of allowable uses, including retail, entertainment, offices, institutional, and residential uses. Uses in the district are all served by public water and sewer and are located on small lots in close proximity to one another. The area is intended to serve residents and visitors with shopping, dining, entertainment, and recreation offerings for at least 18 hours a day. Buildings are typically two-to-four stories in height, located close to the street they front, and symmetrical in design. High quality design is used to preserve land use compatibility rather than large lots or deep landscaping buffers between different uses. The transportation network is a well-established rectilinear street grid network of uniform block sizes, through streets, and alleys. The district includes parks, sidewalks, on-street parking, and pedestrian amenities such as gathering spaces, outdoor dining and seating, and public art. The district is also the center of government and civic life with numerous public and institutional buildings. Emphasis is placed on quality development, pedestrian orientation, and human-scale development.

#### B. DOWNTOWN CORE (DTNC) DISTRICT PREFERRED DEVELOPMENT FORMS

The following images are provided as example forms of allowable development and site configuration. These are provided for informational purposes only, and do not constitute a standard or requirement under this Ordinance. Conflicts between images and the text of this Ordinance are addressed in accordance with Section 1.3, Conflict.



Mixed-Use Building



Live/Work Building



Commercial Building

<sup>18</sup> See STN#35 & 37 (table note in dimensional standards table)

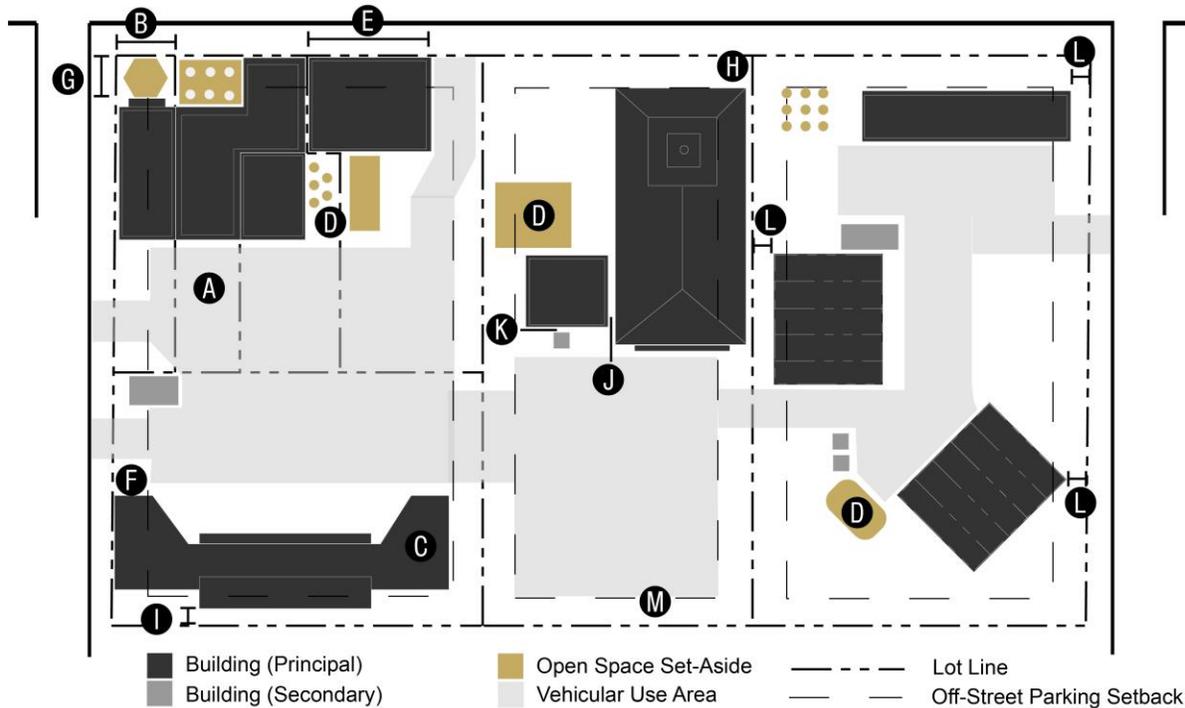


### C. DOWNTOWN CORE (DTNC) DISTRICT DIMENSIONAL STANDARDS

Max. Residential Density (du/ac)	30.0	<b>F</b> Min. Street Setback (ft) [98]	None
<b>A</b> Min. Lot Area (sf)	None	<b>G</b> Max. Street Setback (ft) [98][9]	0[+0]
<b>B</b> Min. Lot Width (ft) [1][2][3]	20	<b>H</b> Side Setback (ft) (Abutting DTNC district / Abutting other district) [+10][+211][1213]	0/5
Max. Lot Coverage (% of lot area)	100	<b>I</b> Rear Setback (ft) (Abutting DTNC district / Abutting other district) [+10][+211][+312]	0/10
<b>C</b> Max. Building Size (sf) [4]	30,000	Min. Spacing Between Buildings (ft) [+110]	
<b>D</b> Min. Open Space Set-Aside (% of lot area) [5]	5	<b>J</b> Between Principal Buildings [+413]	3
Min. Building Height (stories)[6]	2	<b>K</b> Between Secondary and any other Building	3
Max. Building Height (ft)	50	<b>L</b> Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [+514]	10
<b>E</b> Min. Building Frontage (% of lot width)[7][8]	75	<b>M</b> Min. Off-Street Parking Setback (ft)	20

**NOTES:**

[1] Applied to the entire development site when buildings on individual lots have shared or party walls.  
 [2] Measured at the interior building setback line (not the "pole" portion of a flag lot).  
 [3] New blocks of lots with lot widths of less than 50 feet require the provisions of alleys.  
 [4] Applied to new commercial buildings only. Buildings on lots over five acres in area are exempt.  
 [5] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.  
 [6] ~~At least two stories; but corner buildings shall maintain the same height as an adjacent building of more than two stories.~~  
 [7] Measured at inner edge of the street setback adjacent to the primary building facade. Only applied to the lot side adjacent to the primary building facade on corner or dual frontage lots.  
 [8] Gathering areas abutting the street right-of-way are credited towards building frontage requirements.  
 [98] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.  
 [+0] Maximum street setback is applied only to the primary building facade and is zero feet. Primary building walls may be built to the edge of a gathering area located between the primary building wall and the street right-of-way.  
 [+10] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.  
 [+211] Not applied to lots lines adjacent to shared or party building walls.  
 [+312] Not applied to multi-building and unified developments.  
 [+514] Excludes buildings with shared or party walls.  
 [+13+4] Unified and multi-building developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



**D. DOWNTOWN CORE (DTNC) DISTRICT-SPECIFIC STANDARDS****1. MIXED-USE DEVELOPMENT<sup>19</sup>**

Mixed-use development shall comply with the standards in Section 6.2.3, Mixed-Use Design Standards, in addition to the dimensional and district-specific standards included in this sub-section. Conflicts are addressed in accordance with Section 1.3, Conflict.

**1.2. GROUND FLOOR CONFIGURATION**

- a. New mixed-use and non-residential structures shall be configured to comply with commercial building code requirements throughout the ground or street-level floor.
- b. Except for buildings required to include ADA-accessible dwelling units, the portion of the building including the primary façade of the street-level ground floor shall be occupied by a non-residential use with a minimum depth equivalent to one-third of the building's total depth.
- c. The rear two thirds of the street level floor of a building may be used for residential purposes in accordance with Section 4.2.5, Listing of Common Principal Uses.
- d. In cases where a building is required to include ADA-accessible dwelling units, none of the street level floor area must be occupied by a non-residential use.

**2.3. ON-STREET PARKING<sup>20</sup>**

On-street parking shall be provided in accordance with the Town's adopted policy guidance, ~~but shall be limited to one side of the street.~~

**3.4. FENCES AND WALLS**

Fences and walls shall comply with the applicable requirements in Section 6.3, Fences and Walls, and the following:

- a. Opaque fences and walls located within the off-street parking setback or between the front building façade plane and the street it faces shall maintain a maximum height of three feet or less.
- b. Semi-opaque fences and walls located within the off-street parking setback or between the front building façade plane and the street it faces shall maintain a maximum height of four feet or less.
- c. Opaque and semi-opaque fences and walls may maintain a maximum height of up to six feet in locations outside of the off-street parking setback and behind the front façade plane.

**4.5. STREET TREES**

Street trees shall be provided in accordance with Section 6.6.15, Street Trees, except that understory trees may be utilized instead of canopy trees in any location where overhead or underground utilities may be present.

**5.6. LOT ACCESS**

Corner lots shall not maintain direct vehicular ingress or egress to Main Street.

**6.7. ZONING DISTRICT BOUNDARY CHANGES**

The zoning district designation of land within a DTNC district may only occur in accordance with the Town's adopted policy guidance for the downtown, Section 2.3.6, Conditional Rezoning, or Section 2.3.8, Conventional Rezoning, and the following:

<sup>19</sup> See STN#74

#### 3.2.4 (DTNN) DOWNTOWN NEIGHBORHOOD

##### A. DOWNTOWN NEIGHBORHOOD (DTNN) DISTRICT PURPOSE STATEMENT<sup>21</sup>

The Downtown Neighborhood (DTNN) district boundary is depicted in the 2045 Comprehensive Growth Plan and includes three groups of neighborhood blocks located to the north and south of Main Street and surrounded on most sides by the Downtown Transitional (DTNT) district. The Downtown Neighborhood Transitional (DTNTF) district is comprised of neighborhoods with mid-century and older single-family residential dwellings on contiguous lots around the downtown area. The DTNN district standards are configured to protect and maintain the established residential character of the neighborhoods with allowance for limited amounts of neighborhood-serving non-residential and institutional development, all on public water and sewer utilities. Buildings maintain a residential character and are commonly between one and two stories in height. Privacy fences and landscaping are common methods of maintaining land use compatibility between different lots. As with the other downtown districts, sidewalks, parks, and recreation features are distributed throughout the district. The transportation network continues the well-established rectilinear street grid network of uniform block sizes, through streets, and alleys found in the downtown core and transitional area.

##### B. DTNN DISTRICT PREFERRED DEVELOPMENT FORMS

The following images are provided as example forms of allowable development and site configuration. These are provided for informational purposes only, and do not constitute a standard or requirement under this Ordinance. Conflicts between images and the text of this Ordinance are addressed in accordance with Section 1.3, Conflict.



Single-Family Detached Dwellings



Live/Work Building

<sup>21</sup> See STN#40



## D. DOWNTOWN NEIGHBORHOOD (DTNN) DISTRICT-SPECIFIC STANDARDS

### 1. MIXED-USE DEVELOPMENT<sup>22</sup>

Mixed-use development shall comply with the standards in Section 6.2.3, Mixed-Use Design Standards, in addition to the dimensional and district-specific standards included in this sub-section. Conflicts are addressed in accordance with Section 1.3, Conflict.

### 1.2. ON-STREET PARKING

On-street parking shall be provided in accordance with the Town's adopted policy guidance, but shall be limited to one side of the street.

### 2.3. STREET TREES

Street trees shall be provided in accordance with Section 6.6.15, Street Trees, except that understory trees may be utilized instead of canopy trees in any location where overhead or underground utilities may be present.

### 3.4. ZONING DISTRICT BOUNDARY CHANGES

The zoning district designation of land within a DTNN district may only occur in accordance with the Town's adopted policy guidance for the downtown, Section 2.3.6, Conditional Rezoning, or Section 2.3.8, Conventional Rezoning, and the following:

- a. Applications seeking to establish DTNN on land shall be guided by the applicable future land use category on the future land use map in the 2045 Comprehensive Growth Plan, as amended by the Downtown Master Plan.
- b. Applications seeking to alter a DTNN boundary shall be limited solely to those lots that abut or are adjacent to land within the DTNN district. Applications on lands not abutting or adjacent to DTNN will be required to demonstrate how the desired rezoning is both compelling and consistent with the public interest.
- c. Nothing shall limit an applicant from filing a request to establish a DTNN-CZD conditional zoning district on land anticipated to be located within the DTNN district by the Town's adopted policy guidance.
- d. Establishment of a conditional zoning district designation other than CZD within the area designated as downtown in the 2045 Comprehensive Plan may be requested but is unlikely to be approved.

<sup>22</sup> See STN#74

### D. DOWNTOWN TRANSITIONAL DISTRICT-SPECIFIC STANDARDS

#### 1. MIXED-USE DEVELOPMENT<sup>23</sup>

Mixed-use development shall comply with the standards in Section 6.2.3, Mixed-Use Design Standards, in addition to the dimensional and district-specific standards included in this sub-section. Conflicts are addressed in accordance with Section 1.3, Conflict.

#### 1.2. ON-STREET PARKING

On-street parking shall be provided in accordance with the Town's adopted policy guidance, but shall be limited to one side of the street.

#### 2.3. STREET TREES

Street trees shall be provided in accordance with Section 6.6.15, Street Trees, except that understory trees may be utilized instead of canopy trees in any location where overhead or underground utilities may be present.

#### 3.4. ZONING DISTRICT BOUNDARY CHANGES

The zoning district designation of land within DTNT district may only occur in accordance with the Town's adopted policy guidance for the downtown, Section 2.3.6, Conditional Rezoning, or Section 2.3.8, Conventional Rezoning, and the following:

- a. Applications seeking to establish DTNT on land shall be guided by the applicable future land use category on the future land use map in the 2045 Comprehensive Growth Plan, as amended by the Downtown Master Plan.
- b. Applications seeking to alter a DTNT boundary shall be limited solely to those lots that abut or are adjacent to land within the DTNT district. Applications on lands not abutting or adjacent to the DTNT will be required to demonstrate how the desired rezoning is both compelling and consistent with the public interest.
- c. Nothing shall limit an applicant from filing a request to establish a DTNT-CZD conditional zoning district on land anticipated to be located within the DTNT district by the Town's adopted policy guidance.
- d. Establishment of a conditional zoning district designation other than CZD within the area designated as downtown in the 2045 Comprehensive Plan may be requested but is unlikely to be approved.

<sup>23</sup> See STN#74



## 3.2.8 (MXD) MIXED-USE<sup>24</sup>

### A. MIXED-USE (MXD) DISTRICT PURPOSE STATEMENT

The Mixed-Use (MXD) District accommodates residential, institutional, and commercial land uses on lands well-served by public utilities. MXD areas are generally located adjacent to major streets and along primary transportation corridors. The district is intended to foster functional neighborhoods where Town residents and visitors can live, work, shop, and enjoy recreation without travelling large distances between differing uses. Buildings are built close to the sidewalk and close to one another or within pedestrian-oriented campuses without suburban-style setbacks and heavy landscaping areas between them. Developments incorporate public gathering areas that create places for people to congregate and interact. Off-street parking and service areas are located to the sides and rears of buildings to help ensure a continuity of building facades along street edges and to avoid areas that are unsafe or undesirable for pedestrians. Buildings range in height from one-to-three stories. The district encourages a fine-grained network of streets and pedestrian ways that allow a wide freedom of movement and choices in transportation mode. Live/work dwellings, upper-story residential units, and a variety of other residential developments are allowed, but the district does not permit single-family detached dwellings. The district accommodates a wide variety of commercial and institutional use types, as well as low-impact industrial uses like maker space. Ground-floor non-residential is encouraged but not required provided the ground floor is configured in accordance with non-residential building code requirements, and horizontally mixed uses (a blend of different use types in adjacent detached structures) is allowable but may be subject to maximum timeframes for establishment of use mixing by the Town. Mixed-use development in the MXD district remains subject to the standards in Section 6.2.3, Mixed-Use Design Standards, and conflicts are addressed in accordance with Section 1.3, Conflict.

### B. MIXED-USE (MXD) DISTRICT PREFERRED DEVELOPMENT FORMS



Horizontal Mixed-Use



Vertical Mixed-use



Horizontal Mixed-Use



Vertical Mixed-Use

<sup>24</sup> See STN#24 (min./max. street setback numbers) & #74

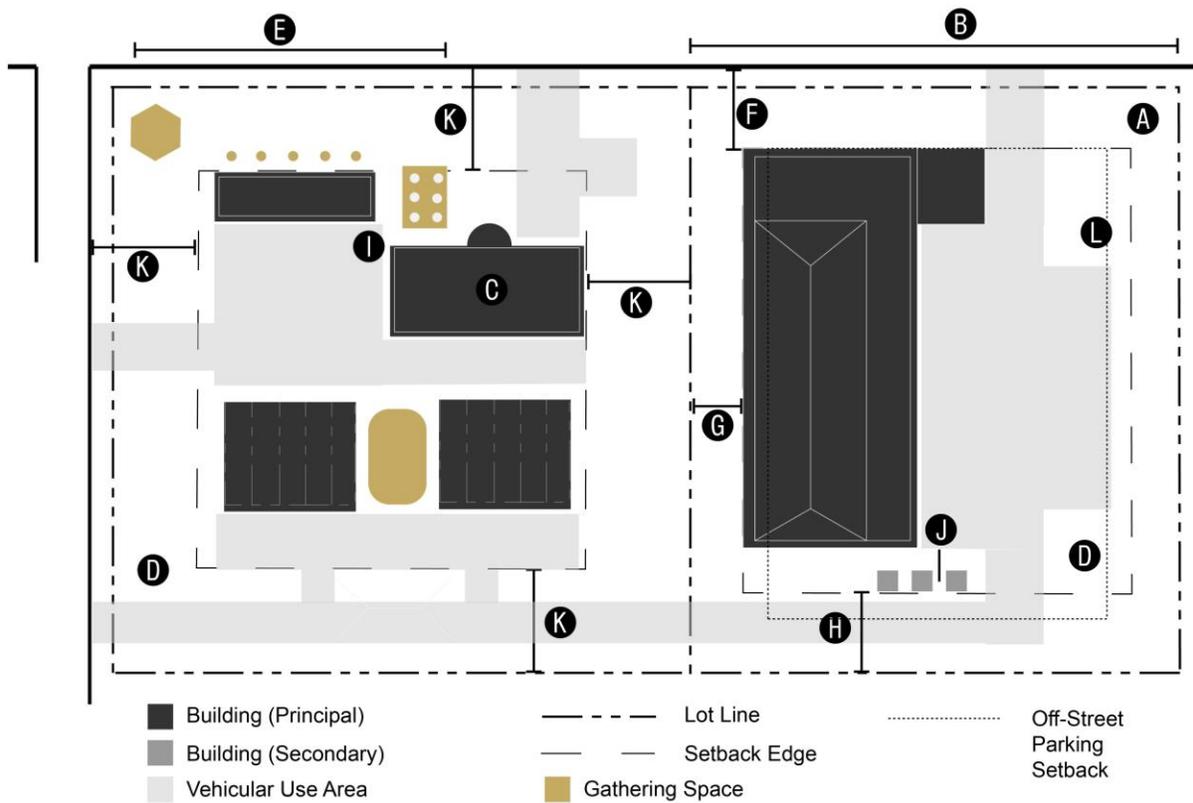


### C. MIXED-USE (MXD) DISTRICT DIMENSIONAL STANDARDS

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

**NOTES:**

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



#### 3.2.14 (RLD) RESIDENTIAL LOW DENSITY<sup>25</sup>

##### A. RESIDENTIAL LOW DENSITY (RLD) DISTRICT PURPOSE STATEMENT

The Residential Low Density (RLD) District creates opportunities for low-density suburban-style residential neighborhoods within the corporate limits and extraterritorial jurisdictional areas of the Town. Lands within the RLD district are typically served by public water and sewer, an informal curvilinear street pattern characterized by loop streets, cul-de-sacs, and single-loaded roadways. Sidewalks ~~are~~ may be provided in ~~heavily traffic areas~~ areas along some streets, but much of the pedestrian movement is accommodated by greenways and trails. Lots are of moderate size, well-landscaped, and provide areas of privacy for residents. Buildings are setback from streets and may include secondary structures, though two or more principal residential dwellings are prohibited on a single lot. Residential uses include single-family detached, organized into either traditional residential neighborhood patterns or as conservation subdivisions with significant amounts of open space and homes concealed from off-site view. The district also permits a wide range of institutional uses, including religious facilities, educational uses, government-related uses, and open space. Agricultural and industrial uses are not permitted.

##### B. RESIDENTIAL LOW DENSITY (RLD) DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Detached Dwelling



Conservation Subdivision



Bed and Breakfast Use

<sup>25</sup> See STN# 43



#### 3.2.15 (RMD) RESIDENTIAL MEDIUM DENSITY

##### A. RESIDENTIAL MEDIUM DENSITY (RMD) DISTRICT PURPOSE STATEMENT

The Residential Medium Density (RMD) District is established to accommodate low-to-moderate-density residential development and ~~complimentary~~complementary uses on lots served by public utilities in the suburban portions of the Town's jurisdiction. The RMD district provides a transition between lower-density residential areas and higher intensity commercial and shopping areas along major corridors. Development in the RMD district is typically organized as a series of individual neighborhoods. The vast majority of RMD lots are around 8,000 square feet in area and contain a single-family detached dwelling located in the center of a landscaped yard. Off-street parking takes place on a driveway in front of or to the side of the dwelling. Most homes are two-to-three stories tall and around 1,000 square feet in size. While the district accommodates single-family detached homes, it also permits duplex dwellings as well as "small-lot" residential developments such as bungalow courts, pocket neighborhoods, and conservation subdivisions. It also accommodates a limited range of institutional uses but almost no commercial or industrial use types. Streets are typically organized as a modified grid with some curvilinear segments. Neighborhoods are well-served by sidewalks and greenways that permit pedestrians to access nearby institutional and commercial uses.

##### B. RESIDENTIAL MEDIUM DENSITY DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Detached Dwelling

Bungalow Court



Conservation Subdivision



Pocket Neighborhood



#### 3.2.16 (RMF) RESIDENTIAL MULTI-FAMILY

##### A. RESIDENTIAL MULTI-FAMILY (RMF) DISTRICT PURPOSE STATEMENT

The Residential Multi-Family (RMF) District is established to accommodate high-density forms of residential development and ~~complimentary~~ complementary uses on lots served by public utilities in the urban portions of Town. The district is intended to provide a wide range of housing choices to Town residents as well as to create sufficient residential densities to support the downtown and employment centers. The district is configured to support the establishment of functional neighborhoods that include residential, employment, and recreational uses in close proximity to one another. In addition to a wide range of residential uses, the district also permits live/work units, upper-story residential in mixed-use buildings, and neighborhood-serving low-intensity non-residential uses like offices, co-working spaces, walk-up restaurants, and micro-retail. Numerous forms of institutional use are also permitted. Land uses in the RMF district are well-connected with surrounding areas via connected streets, sidewalks, greenways, and trails. Open space set-asides may take the form of active or urban formats. Off-street parking takes place on a driveway in front of or to the side of individual dwellings and in shared surface lots for other residential uses. While the district accommodates residential densities around 12 units an acre, it also allows density bonuses for voluntary compliance with design guidelines or inclusion of sustainable development incentives. All development in the district shall be in accordance with the dimensional requirements in this section and the applicable use standards in Chapter 4, Land Uses.

##### B. RESIDENTIAL MULTI-FAMILY (RMF) DISTRICT PREFERRED DEVELOPMENT FORMS



Single-Family Attached Buildings



Pocket Neighborhood



Triplex Building



Multi-family Building



Live/Work Building



Single-Family Detached



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

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

## **5. METHODS OF HIGHER QUALITY DEMONSTRATION<sup>26</sup>**

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

### **a. ENHANCED LANDSCAPING**

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

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

### **b. ENHANCED OFF-STREET PARKING**

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

### **c. ENHANCED TRAFFIC CONTROL DEVICES**

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

## **5.6. PRINCIPAL AND SECONDARY USES**

- a. The Concept Plan shall include a list of proposed principal and secondary uses.

<sup>26</sup> See STN#104



**D. EXCEPTIONS**

The following features are exempted from the maximum height requirements in this Ordinance:

1. Parapet walls of less than five feet in height above the roof deck;
2. Spires, steeples, minarets, belfries, cupolas, domes, and similar architectural features not intended for human habitation;
3. Water tanks, vent housings, elevator housings, and equipment covers;
4. Chimneys, vent pipes, skylights, or mechanical equipment; and
5. Bulkheads or a single-story penthouse occupying 25 percent or less of the total roof area.

**3.6.5 FLOOR AREA**

Gross floor area (GFA) shall be defined as the sum in square feet of all floors of the building measured from the exterior face of the exterior walls. The gross floor area shall include or exclude areas as indicated below:

**A. AREAS INCLUDED IN GROSS FLOOR AREA**

1. All enclosed habitable space.
2. Elevators, hallways, and stairwells on stories containing habitable space.

**B. AREAS EXCLUDED FROM GROSS FLOOR AREA**

1. Unenclosed porches or decks.
2. Off-street parking areas, including the elevators, hallways, mechanical equipment, and stairwells serving structured parking.
3. Utility services areas devoted to the electric service, the potable water service, the wastewater system, the telephone service, the cable service, or to a backup generator.
4. Mechanical areas and uninhabited enclosed spaces on tops of roofs not intended for general storage.

**3.6.6 LOT COVERAGE<sup>27</sup>**

**A.** Lot coverage is the percentage of a lot or development site that is covered by buildings or roof structures, excluding allowed projecting eaves and balconies. Only land area located under a building or roof structure are included in lot coverage; uncovered impervious surfaces (e.g. an uncovered driveway, patio, or walkway) are not included within lot coverage.

**B.** Developments approved prior to January 2, 2024 subject to lot coverage or impervious surface limitations in place prior to January 2, 2024 shall continue to be subject to those prior limitations unless and until the development is subject to an approval under this Ordinance.

<sup>27</sup> See STN#15



**TABLE 3.6.9: ALLOWABLE ENCROACHMENTS INTO REQUIRED SETBACKS**

FEATURE	MAXIMUM ALLOWABLE ENCROACHMENT DISTANCE INTO A REQUIRED SETBACK [1]
Pet Shelters	Subject to the setbacks applied to principal structures
Playground Equipment Accessory to a Residential Use	When located ten or more feet from the principal structure, may be located within five feet of a side or rear lot line, but shall not be located within a required street setback
Produce Stand	May encroach into a required setback but no closer than five feet from any lot line
Retaining Walls	May encroach into a required setback
Roof Eaves, Rakes, and Overhangs	May extend up to four feet into any required setback but no closer than three feet from any lot line
Signs	May extend into any required setback in accordance with Section 6.13, Signage
Swimming Pool/Hot Tub, (including all ancillary appurtenances)	May extend into a required side or rear setback, but shall be no closer than five feet to a lot line
Tool Shed	May be located within rear yard but no closer than five feet from any lot line, and no closer than five feet to the principal structure
Underground Structures (including septic systems but excluding swimming pools)	May be located in any required setback but no closer than three feet from any lot line
Vegetation and Landscaping Features	May be located in any required setback
Vehicular Off-street Parking Area <sup>28</sup>	<p><u>Except in the DTNC and DTNT districts, M</u> may be located in any required setback provided that no parking area is located within five feet of the street right-of-way</p> <p><u>No encroachment into the off-street parking setback is permitted in the DTNC or DTNT districts</u></p>
Well House (functional or aesthetic)	May be located in any required setback, but shall be no closer than eight feet from a right-of-way

**NOTES:**

[1] Regardless of the amount of allowable encroachment, no features shall be permitted within a public utility easement.

<sup>28</sup> See STN#36



# Chapter 4 Land Uses

## Section 4.2 Principal Uses

### Sub-section 4.2.5 Listing of Common Principal Uses

**TABLE 4.2.5: LISTING OF COMMON PRINCIPAL USES**

P = Permitted, subject to a Zoning Permit & applicable use standards  
 S = Permitted, subject to a Special Use Permit & applicable use standards  
 C = Permitted within a conditional zoning district, subject to applicable use standards  
 "•" = Prohibited  
 [#] = Table note (see end of table)

USE TYPE	CONVENTIONAL RESIDENTIAL DISTRICTS						CONVENTIONAL NON-RESIDENTIAL DISTRICTS							SPECIAL DISTRICTS			CONDITIONAL DISTRICTS					USE STANDARDS	
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD		CZI
Outdoor Commercial Recreation	.	.	.	.	.	.	.	.	.	.	.	P	P	.	.	.	.	.	.	C	.	C	4.3.92
Packaging and Shipping	.	.	.	.	.	.	.	P	P	.	P	P	P	.	.	P	.	.	C	C	C	C	
Parking Lot	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	P	.	.	C	C	.	4.3.97
Parking Structure	.	.	.	.	.	.	.	P	S	S	.	.	.	.	.	.	.	.	.	C	C	.	4.3.98
Pawn Shop	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	C	C	.	4.3.99
Pharmacy	.	.	.	.	.	.	P	P	P	.	P	P	.	.	.	P	.	.	C	C	C	.	4.3.100
Recreational Vehicle Park	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	C	C	.	4.3.104
Repair Shop	.	.	.	.	.	.	.	P	P	.	P	P	P	.	.	P	.	.	C	C	C	C	4.3.107
Restaurant Indoor and Outdoor Seating	.	.	.	.	.	.	P	P	P	.	P	P	.	.	.	P	.	.	C	C	C	.	4.3.110
Restaurant Indoor Seating Only	.	.	.	.	.	.	P	P	P	.	P	P	.	.	.	P	.	.	C	C	C	.	
Restaurant Walk-up Service Only	.	.	.	.	.	.	P	P	P	.	P	P	.	.	.	P	.	.	C	C	C	.	
Restaurant with Drive Through	.	.	.	.	.	.	P	.	.	.	P	P	.	.	.	.	.	.	C	C	C	.	4.5.5K
Retail, General	.	.	.	.	.	.	.	P	P	.	P	P	P	.	.	P	.	.	C	C	C	C	4.3.111
Retail, Large Format	.	.	.	.	.	.	.	.	.	.	.	P	P	.	.	.	.	.	C	C	.	C	4.3.112
Retail, Micro	.	.	.	.	.	P	.	P	P	P	P	P	.	.	.	P	.	C	C	C	C	C	4.3.113
Sexually-Oriented Business	.	.	.	.	.	.	.	.	.	.	.	.	S	.	.	.	.	.	.	.	.	.	4.3.118
Storage, Indoor and Outdoor AMENDED 4.15.24 (UDOTA1-24)	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	C	4.3.124
Storage, Indoor Only AMENDED 4.15.24 (UDOTA1-24)	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	C	4.3.123
Tanning Salon	.	.	.	.	.	.	.	P	P	.	P	P	.	.	.	P	.	.	C	C	C	.	
Tattoo & Piercing Establishment	.	.	.	.	.	.	.	.	.	.	P	P	.	.	.	P	.	.	C	.	C	C	4.3.126
Theatre, Indoors	.	.	.	.	.	.	.	P	P	.	P	P	.	.	.	P	.	.	C	C	C	.	
Theatre, Outdoors	.	.	.	.	.	.	.	.	.	.	.	P	.	.	.	.	.	.	.	C	.	.	4.3.129
Tobacco, CBD, and Vapor Shop	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	C	.	.	4.3.130
Vehicle Painting/ Bodywork	.	.	.	.	.	.	.	.	.	.	.	.	P	P	.	.	.	.	.	.	.	C	4.3.136



# Chapter 4 Land Uses

## Section 4.2 Principal Uses

### Sub-section 4.2.5 Listing of Common Principal Uses

**TABLE 4.2.5: LISTING OF COMMON PRINCIPAL USES**

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USE TYPE	CONVENTIONAL RESIDENTIAL DISTRICTS						CONVENTIONAL NON-RESIDENTIAL DISTRICTS								SPECIAL DISTRICTS			CONDITIONAL DISTRICTS					USE STANDARDS
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD	CZI	
Vehicle Parts and Accessory Sales	.	.	.	.	.	.	.	.	.	.	P	P	.	.	.	.	.	.	.	C	.	.	4.3.137
Vehicle Repair and Service (no painting/ bodywork)	.	.	.	.	.	.	.	.	.	.	.	P	P	.	.	.	.	.	.	C	.	C	4.3.138
Vehicle Sales and Rental	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	C	.	C	4.3.139
Vehicle Towing and/or Storage <sup>29</sup>	.	.	.	.	.	.	.	.	.	.	.	.	P	P	.	.	.	.	.	C	.	C	4.3.140
Vehicle Washing or Detailing	.	.	.	.	.	.	.	.	.	.	P	P	.	.	.	.	.	.	C	C	C	C	4.3.141
Veterinary Services, Large Animal	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	C	.	.	.	.	4.3.142
Veterinary Services, Small Animal	.	.	.	.	.	.	P	P	.	.	P	P	.	.	.	.	.	.	C	C	C	C	
<b>INDUSTRIAL USE CLASSIFICATION</b>																							
Asphalt or Concrete Plant	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	C	4.3.12
Business Incubator	.	.	.	.	.	.	P	P	P	.	P	P	P	.	.	P	.	.	C	C	C	C	4.3.24
Contractor Services Office/Yard	.	.	.	.	.	.	.	.	.	.	.	.	P	P	.	.	.	.	.	C	.	C	4.3.37
Cryptomining and Data Processing	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	C	4.3.40
Electrical, HVAC, or Plumbing Fabrication	.	.	.	.	.	.	.	.	.	.	.	.	P	P	.	.	.	.	.	C	.	C	4.3.42
Extractive Industry	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	.	C	
Freight Terminal	.	.	.	.	.	.	.	.	.	.	.	.	P	P	.	.	.	.	.	C	.	C	4.3.54
Fuel Oil/Bottled Gas Distribution	.	.	.	.	.	.	.	.	.	.	.	.	P	P	.	.	.	.	.	.	.	C	4.3.55
Level 2 Solar Energy Conversion	.	.	.	.	.	.	.	.	.	.	.	.	.	P	.	.	P	.	.	.	.	C	4.3.122
Level 3 Solar Energy Conversion	.	.	.	.	.	.	.	.	.	.	.	.	.	P	.	.	P	.	.	.	.	C	4.3.122
Major Utility	.	.	.	.	.	.	S	.	.	.	.	.	P	P	.	.	P	.	.	C	C	C	4.3.135

<sup>29</sup> See STN#19 - changed to address relationship between principal and new secondary use. New secondary use permits in CRM and CZC due to relocation of RV storage as a towing or storage secondary use in a non-residential district



**FIGURE 4.3.23: BUNGALOW COURT CONCEPTUAL DESIGN**



## B. STANDARDS<sup>30</sup>

1. A bungalow court shall be located on a site of at least one acre, but not more than five acres in area, and shall include at least three principal dwelling units.
2. All dwellings shall be located on their own individual lots.
3. The use shall comply with the maximum density and minimum setback requirements for the bungalow court use type in the zoning district where proposed.
4. Bungalow courts shall be limited to single-family detached dwellings as the principal use, though accessory dwelling units in accordance with Section 4.5.5A, Accessory Dwelling Unit, Detached, or Section 4.5.5B Accessory Dwelling Unit, Internal, and home occupations in accordance with Section 4.5.5Q, Home Occupation, Level 1, shall be permitted.
5. All residential structures in a bungalow court shall voluntarily comply with the provisions in Section 6.2.6, Single-Family Residential Design Guidelines.
6. The bungalow court shall provide a Type **EB** perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, along all lot lines outside the bungalow court that abut a residential district.
7. All driveways shall be shared by at least two, but no more than five lots.
8. Bungalow courts that incorporate off-street parking shall include a shared driveway(s) that:
  - a. Is located on commonly-owned land or is the subject of a shared access easement granting access to all lots or dwellings served by the shared driveway;
  - b. Comprised of concrete, brick, or pavers; and
  - c. Located central to the dwellings served.

## 4.3.24 BUSINESS INCUBATOR

A business incubator may be provided as a principal use in its own building, as tenant space within a multi-tenant building, or as a secondary use to an existing non-residential use, subject to the following standards.

<sup>30</sup> See STN#48



#### 4.3.119 SINGLE-FAMILY ATTACHED DWELLING<sup>31</sup>

Single-family attached dwellings shall comply with the following standards:

- A.** A single-family attached dwelling development of more than eight units shall be served with access from a collector or higher classification street.
- B.** Except in the DTNC, DTNN, or DTNT districts, individual single-family attached dwelling buildings with more than eight units in a single row shall be served by alleys located to the rear of the building.
- B.C.** In the DTNC, DTNN, or DTNT districts, all lots of less than 50 feet in width shall be served by alleys located to the rear of the building, regardless of the number units in a single row.
- C.D.** Each single-family attached dwelling shall have at least one party wall shared fully or partially within another single-family attached dwelling.
- D.E.** A single-family attached dwelling unit shall meet all applicable State Building Code standards for minimum room size and ceiling clearance requirements.
- E.F.** Attached garages are prohibited for one-story single-family attached dwellings.
- F.G.** Detached garages serving single-family attached dwellings shall be located behind the rear building line of the dwelling they serve, or shall be located on common land. In no instance shall a detached garage be located closer than 20 feet to the closest edge of an alley, right-of-way, vehicular travel way, or pedestrian access.
- G.H.** In no instance shall a single-family attached dwelling with off-street parking located between the front of the building and the street it faces be located closer than 25 feet from the edge of a right-of-way, sidewalk, or other pedestrian access.
- H.I.** In cases where a single-family attached dwelling is served by off-street parking located to the side or rear, the edge of the building shall be no closer than 20 feet from the closest edge of the right-of-way, vehicular travel way, or pedestrian access.
- I.J.** Principal buildings shall be setback from parking lots, private streets, and driveways on common land by at least 10 feet, as measured from back of curb or edge of pavement (if no curb is proposed).
- J.K.** All new utilities shall be located underground, and existing overhead utilities are strongly encouraged to be relocated to underground locations.
- K.L.** All single-family attached dwelling developments shall provide private common open space in accordance with Section 6.7.1D, Minimum Open Space Set-Aside Requirements, and shall include an owners' association established in accordance with Section 6.8, Owners' Associations.
- L.M.** Adequate access to all dwelling units shall be provided for firefighting equipment, service deliveries, and refuse collection.
- M.N.** A single-family attached dwelling development shall incorporate pedestrian circulation in accordance with Section 6.1, Access and Circulation.
- N.O.** A type C perimeter buffer configured in accordance with Section 6.6.12, Perimeter Buffers, shall be installed along all lot lines shared with a residential district that has a lower maximum residential density.
- O.P.** Single-family attached dwelling development may take advantage of available residential density bonuses for voluntary compliance with the applicable provisions in Section 6.2.6, Single-Family Residential Design Guidelines.
- P.Q.** Single-family attached dwelling units configured as condominiums shall comply with the following standards:

<sup>31</sup> See STN#9



**4.3.134 URGENT CARE**

- A. An urgent care use shall have direct access to a collector or higher classification street.
- B. All activity shall take place within an enclosed structure.
- C. A six-foot-high opaque fence or wall shall be erected along all lot lines shared with a residential zoning district.
- D. The use shall maintain proper sharps and biohazard disposal protocols, including tamper-proof containers for these types of wastes when located outdoors in areas accessible by the public.
- E. The uses shall comply with the standards in [Section 6.2.5, Non-Residential Design Standards](#).

**4.3.135 UTILITY, MAJOR**

Major utilities shall comply with the standards in this section, but these standards are not applied to minor utility use types.

- A. All structures, buildings, or enclosed areas used for the operation of a wastewater treatment facility shall be a minimum of 300 feet from a residentially zoned lot.
- B. Equipment capable of producing noise or sound in excess of 70 decibels shall be located no closer than 100 feet to the nearest residential district, unless located on a special purpose lot.
- C. Security fencing, a minimum of six feet in height, shall be provided around the perimeter of the use.
- D. A type C perimeter buffer configured in accordance with [Section 6.6.12, Perimeter Buffers](#), shall be installed along all lot lines abutting a residential district.

**4.3.136 VEHICLE PAINTING/ BODYWORK**

- A. The use shall be located at least 250 feet from any residential district, school (except vocational schools), or public recreation area.
- B. Vehicles shall not be parked or stored as a source of parts.
- C. No vehicle sales or rental shall be permitted.
- D. Repair of all vehicles shall occur within an enclosed building. In no instance shall any activity that results in airborne particulates, including painting, sanding, or application of coatings, take place outdoors.
- E. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and fully screened by an opaque fence or wall of at least six feet in height.

**4.3.137 VEHICLE PARTS AND ACCESSORY SALES**

- A. No vehicle sales or rental shall be permitted.
- B. No vehicle repairs shall take place as part of a vehicle parts and accessory sales use.
- C. No vehicles or parts shall be stored outside, and all storage shall take place within an enclosed structure.

**4.3.138 VEHICLE REPAIR AND SERVICE (NO PAINTING/ BODYWORK)**

- A. No vehicle sales or rental shall be permitted, but sales of parts or accessories may take place as a secondary use.
- B. Service bay doors shall not be oriented toward land in a residential zoning district.
- C. All repair or service operations, excluding washing, shall be conducted entirely within a fully enclosed building. Nothing shall limit the opening of bay doors during hours of operation.
- D. Outdoor storage of vehicles shall comply with the applicable standards in [Section 6.6.13, Screening](#). Outdoor parking of vehicles outside of hours of operation shall be considered outdoor storage subject to applicable screening requirements.
- E. There shall be no dismantling of vehicles for salvage.

- F. The temporary storage of impounded vehicles is prohibited.

#### 4.3.139 VEHICLE SALES AND RENTAL

- A. Vehicle display areas shall be surfaced with concrete, asphalt, or other permanent surfacing material other than crushed stone.
- B. No vehicles or other similar items shall be displayed on the top of a building.
- C. Vehicle display areas shall provide landscaping in accordance with Section 6.6.11, Off-Street Parking Lot Landscaping, when abutting public or private street rights-of-way.
- D. All lights and lighting shall be designed and arranged so no source of illumination is directly visible from any adjacent property.
- E. Repair and service functions are permitted as a secondary use provided all repair-related activities take place entirely within an enclosed building.
- F. Outdoor parking of vehicles being serviced shall only take place within an area that complies with the applicable requirements in Section 6.6.13, Screening.

#### 4.3.140 VEHICLE TOWING AND OR STORAGE<sup>32</sup>

- A. A maximum of no more than 100 vehicles at any one time shall be stored on the property.
- B. All ~~towed~~ vehicles must be stored in a vehicle storage area depicted in an approved site plan.
- C. All vehicles shall be operable, and no wrecked or junked vehicles shall be permitted.
- D. The storage area shall be paved with asphalt, concrete, gravel, or other suitable all-weather surface to minimize dust emissions and the buildup of dirt, mud, and other debris.
- E. All entrances to and from the storage area shall be secured and locked whenever an employee is not present on the property.
- F. Storage of ~~motor~~ vehicles shall comply with the applicable standards in Section 6.6.13, Screening.
- F.G. No recreational vehicle (RV) shall be used as a permanent residence or business.

#### 4.3.141 VEHICLE WASHING OR DETAILING

- A. Equipment capable of producing noise or sound in excess of 70 decibels, including vacuums, shall be located no closer than 200 feet to the nearest lot line shared with residentially-zoned land.
- B. No vehicle washing bays shall be located within 20 feet of a side or rear lot line.
- C. No outdoor display of merchandise or outdoor storage shall be permitted. Storage of chemicals in containers larger than 55 gallons shall take place entirely underground.
- D. No overnight storage of vehicles shall be permitted.
- E. Outdoor drying and detailing areas shall include drains or other features that prevent the accumulation of rinse water or chemicals on a street right-of-way or in a roadway's drainage system.
- F. Retail sales of gasoline or vehicle-related products may be permitted as a secondary use, subject to the applicable standards in Section 4.5, Secondary Uses.

#### 4.3.142 VETERINARY SERVICES, LARGE ANIMAL

No pens or runs shall be located within 500 feet of a lot line.

#### 4.3.143 VETERINARY SERVICES, SMALL ANIMAL

- A. All activities, except for pet rehabilitation or testing activities, shall take place entirely within an enclosed structure.
- B. Outdoor activity areas shall be located to the side or rear of a structure unless such placement results in these areas having a closer proximity to a residential zoning district boundary.

<sup>32</sup> See STN#19



#### 6. PROXIMITY TO A STREET<sup>33</sup>

- a. Except on lots of two acres in area or more, in no instance shall the the following secondary uses or structures shall be no closer to a public street right-of-way than a principal structure on the same lot:
- a.i. Accessory dwelling unit;
  - b.ii. Detached garage or carport;
  - c.iii. Ham radio antenna or equipment;
  - d.iv. Stables;
  - e.v. Tool sheds;
  - f.vi. Swimming pools or hot tubs;
  - g.vii. Storage of an inoperable vehicle; or
  - viii. Parking of a recreational vehicle, heavy truck, or trailer containing another vehicle, boat, or equipment.
- h.b. When one of the secondary uses or structures listed in sub-section (a) above is proposed in front of a principal structure on a lot of two acres or more in area, it shall be setback at least twice the applicable street setback.

#### C. MAXIMUM SIZE

1. Except for in-ground swimming pools, secondary uses and structures shall be smaller in square footage, floor area, and use area than the principal structure they serve.
2. In-ground swimming pools may have a use area or volume greater than the principal structure they serve.
3. Barns, silos, green houses, and similar features serving as secondary structures to agricultural uses may exceed the total floor area or square footage of a principal single-family dwelling on the lot where the agricultural use is located.

#### D. ALLOWABLE HEIGHT

1. Secondary structures shall comply with the maximum building height requirements for the zoning district where located, except that secondary structures within 10 feet of a lot line shall not be taller than 15 feet.
2. Maximum height standards shall not apply to certain secondary structures in accordance with Section 3.6.4D, Exceptions.

#### E. COMPLIANCE WITH DESIGN STANDARDS

1. Secondary uses and structures serving principle uses that are subject to the design standards or guidelines in Section 6.2, Design Standards and Guidelines, shall comply with the design standards applied to the principal use they serve or shall employ exterior materials, colors, and architectural details that are configured to be complementary to the principal use, as determined by the Planning Director.
2. The degree to which proposed exterior materials, colors, and architectural details are configured in a complementary manner to a principal use shall be in the sole opinion of the review authority deciding the application.

#### F. COMPLIANCE WITH USE STANDARDS

1. Secondary uses shall only be permitted subject to all applicable standards in Section 4.5.5, Standards for Specific Secondary Uses.

<sup>33</sup> See STN#20



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

### 4.5.4 LISTING OF COMMON SECONDARY USES

#### A. TABLE AS GUIDE

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

#### B. LISTED SECONDARY USES

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

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

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

"C" = Permitted, subject to Section 2.3.6, Conditional Rezoning, applicable secondary use-specific standards, and conditions of approval  
 "P" = Permitted, subject to applicable secondary use-specific standards  
 "S" = Permitted subject to Section 2.3.22, Special Use Permit, and applicable secondary use-specific standards  
 "•" (blank cell) = Not allowed or no additional secondary use-specific standards  
 Most secondary uses are subject to use standards in Section 4.5.5, Standards for Specific Secondary Uses

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



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

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

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

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

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

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

SECONDARY USE TYPE [1]	CONVENTIONAL RESIDENTIAL DISTRICTS						CONVENTIONAL NON-RESIDENTIAL DISTRICTS						SPECIAL DISTRICTS			CONDITIONAL DISTRICTS						
	RUR	RLI	RLD	RMD	RHD	RMF	OFI	DTNC	DTNN	DTNT	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD	CZI
Electric Vehicle Charging Station	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Family Health Care Structure	P	P	P	P	P	P	P	P	P	P	•	•	•	•	•	P	•	C	C	•	C	•
Flagpole	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C
Garage or Carport, Detached	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Guard House, Shelter, or Gatehouse	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Helistop	•	•	•	•	•	•	S	•	•	•	•	•	•	S	•	•	S	•	C	C	C	C
Home Occupation, Type 1	P	P	P	P	P	•	P	P	P	P	P	P	•	•	•	•	•	C	•	•	•	•
Home Occupation, Type 2	P	S	S	S	S	•	S	P	P	P	P	P	•	•	•	•	•	C	•	•	•	•
Mobile Restaurant <u>or Push Cart</u>	•	•	•	•	•	•	•	P	P	P	•	P	P	P	•	•	•	•	C	C	C	C
Outdoor Dining and Seating	•	•	•	•	•	P	P	P	P	P	P	P	P	P	•	P	•	C	C	C	C	C
Outdoor Display/Sales	•	•	•	•	•	•	•	P	P	P	P	P	P	P	•	S	P	•	C	C	C	•
Outdoor Storage	•	•	•	•	•	•	•	P	P	P	P	P	P	P	•	•	P	•	•	C	C	C
Parking of Heavy Trucks or Trailers	P	•	•	•	•	•	•	•	•	•	•	P	P	P	•	•	P	•	•	C	•	C
Parking of Recreational Vehicles <sup>34</sup>	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•	•	C	•	•	•	•
Play Equipment	P	P	P	P	P	P	P	P	P	P	P	•	•	•	P	P	P	C	C	C	C	•
Private Stables	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•	•	•	C	•	•	•	•
Produce Stand	P	P	P	P	P	•	P	P	P	P	P	P	•	•	•	•	•	C	•	C	C	•
Solar Energy Conversion, Level 1	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Swimming Pool/Hot Tub	P	P	P	P	P	P	P	P	P	P	P	P	•	•	•	P	•	C	C	C	C	•
Tool/Storage Shed	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Underground Storage Tank	•	•	•	•	•	•	•	•	•	•	P	P	P	P	•	•	P	•	•	C	•	C
Vehicle Repair (non-commercial)	P	P	P	P	•	•	P	•	•	•	P	P	P	•	•	•	C	•	C	•	•	
<u>Vehicle Towing or Storage</u> <sup>35</sup>	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	C	•	C

NOTES:

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

<sup>34</sup> See STN#19

<sup>35</sup> See STN#19



### S. **MOBILE RESTAURANT OR PUSH CART<sup>36</sup>**

#### 1. LOCATION

Mobile restaurants or push carts may only be operated on private land in accordance with Section 4.5.4, Listing of Common Secondary Uses. Nothing shall limit the operation of a mobile restaurant push cart on public property provided the use takes place solely within a space designated for mobile restaurants.

#### 2. PERMITS REQUIRED

- a. The operation of a mobile restaurant shall require approval of a Zoning Compliance Permit. A Zoning Compliance Permit issued for a mobile restaurant may also be used to authorize the operation of a push cart used for food and beverage vending.
- b. A Zoning Compliance Permit for the operation of a mobile restaurant or push cart shall be obtained by the landowner or landowner's agent for the site where the mobile restaurant will operate.
- c. In cases where a mobile restaurant operates on two or more different lots or sites, the landowner of each lot or site where a mobile restaurant operates shall secure a separate Zoning Compliance Permit for operation of the mobile restaurant or push cart.
- d. Vendors in vehicles must provide documentation of approval from the Health Department of the County in which the mobile restaurant's associated restaurant or commissary is located.
- e. The County Health Permit must be displayed during hours of operation.

#### 3. PLACEMENT DURING AND AFTER FOOD SALES

- a. Mobile restaurants and push carts shall be parked on private property with the property owners' permission and shall not be parked within any public street, right-of-way, or sidewalk unless the street has been closed for a special event.
- b. Mobile restaurants and push carts shall not block parking spaces, drive aisles, access to loading/service areas, or emergency access and fire lanes. Associated vending must also be positioned at least 15 feet away from fire hydrants, any fire department connection, and driveway entrances.
- c. No more than two mobile restaurants are permitted as a secondary use at the same time, unless at an approved special event, market, festival, or an active construction site.
- d. A mobile restaurant or push cart shall be removed after operating hours or a special event and be stored in a legally permissible location.

#### 4. ADDITIONAL STANDARDS FOR MOBILE RESTAURANTS AND PUSH CARTS WITHIN DOWNTOWN DISTRICT

- a. Mobile restaurants and push carts operating between the hours of 8 AM and 5 PM shall not be parked on the street for more than two consecutive hours unless the street has been closed for a special event.
- b. In cases where a mobile restaurant or push cart is operating within an off-street parking lot, the mobile restaurant or push cart shall be located outside of loading zones, fire zones, and vehicular travelways.
- c. Customer access for food sales shall be from the side of the food truck mobile restaurant facing the sidewalk not the street.
- d. Food sales shall not impede pedestrian traffic along the sidewalk.

<sup>36</sup> See STN#110



### 5. MINIMUM DISTANCE FROM CERTAIN USE TYPES<sup>37</sup>

- a. ~~No mobile restaurant shall operate within 100 feet of any school, religious institution, or cemetery.~~
- b. No mobile restaurant or push cart shall operate within 100 feet of the main entrance of a restaurant located within a principal structure during business hours, unless authorized by a restaurant.

### 6. OPERATION

- a. The mobile restaurant or push cart owner or their designee shall be present at all times except in case of an emergency.
- b. The hours of operation shall be between the hours of 7:00 AM and 12:00 AM except for special events.
- c. Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.
- d. Grease and wastewater must be contained and disposed of in an approved grease receptacle located at the associated restaurant or commissary.
- e. The operator shall keep all areas within ten feet of the mobile restaurant or push cart clean of grease, trash, paper, cups, or cans associated with the operation. No liquid waste or grease is to be disposed into tree pits, storm drains, or onto the sidewalks, streets, or other public locations. Under no circumstances shall grease be released into or disposed of in the Town's sanitary sewer system.
- f. If the vendor is operating a ~~vehicle~~ mobile restaurant after dark, the vehicle shall provide appropriate lighting.
- g. A mobile restaurant ~~or vehicle~~ shall not operate as a drive-up window.
- h. Mobile restaurant and push cart operators are responsible for the proper disposal of waste and trash associated with the operation. Town trash receptacles are not to be used for this purpose. Operators shall remove all waste and trash from their location at the end of each day or as needed to maintain the health and safety of the public.
- i. The Planning Director may initiate enforcement action if a mobile restaurant or push cart is causing parking, traffic congestion, or litter problems either on or off the property where the use is located or such use is otherwise creating a danger to the public health or safety.

### 7. ASSOCIATED FEATURES

- a. No tables, chairs, or other structures shall be allowed outside of the mobile restaurant or push cart.
- b. Advertising consisting of business name, logo, and items available for sale may be displayed on the mobile restaurant's vehicle(s). No other form of advertising shall be permitted.

## T. OUTDOOR DINING OR SEATING

Outdoor dining or seating shall comply with the following requirements:

### 1. GENERALLY<sup>38</sup>

- a. Approval of a Zoning Compliance Permit shall be required for the establishment of outdoor dining or seating areas capable of accommodating up to 12 people. Site Plan

<sup>37</sup> See STN# 21

<sup>38</sup> See STN# 52

approval shall be required for outdoor dining or seating areas capable of accommodating more than 12 people.

- b. Outdoor dining or seating may take place on the same lot as the principal use it serves. ~~Unless proposed within a public right-of-way, outdoor dining or seating shall be located on the same lot or tract or under the same ownership as the principal use it serves. If located within a public right-of-way, the outdoor dining or seating area shall be directly adjacent to the lot where the principal use is located, or on an abutting lot.~~ An outdoor dining or seating area located on a different lot from the principal use it serves shall not be credited towards open space set-aside.
- c. Outdoor dining or seating areas where alcohol is served or may be consumed shall be clearly demarcated from other areas of the site or a public right-of-way with planters, fencing, roping, railing, or some other physical barrier that separates the area from its surroundings.
- d. Outdoor dining or seating areas that include any form of public address system, recorded or live musical performances, or other sounds provided as part of the operation of the principal use shall be located as far as possible from adjacent residential zoning.
- e. Lighting associated with outdoor dining or seating shall comply with the standards in Section 6.4, Exterior Lighting, except that exterior lighting may be located within Town right-of-way subject to all applicable Town policies.
- f. Outdoor dining or seating areas shall comply with the applicable off-street parking standards in Section 6.9.4, Off-Street Parking Requirements.
- g. In no instance shall an outdoor dining or seating area take place within a required landscaping, screening, or parking area or interfere with safe pedestrian or vehicular circulation on or off the site.
- h. In no instance shall an outdoor dining or seating area obstruct access to an entrance or exit, emergency exit, drainage infrastructure, fire hydrant, standpipe, utility access area, ventilation, or ADA access features.
- i. Outdoor dining or seating areas shall include trash receptacles and shall not result in the accumulation of litter or waste in the public right-of-way or on adjacent lots.

## 2. IF LOCATED WITHIN A PUBLIC RIGHT-OF-WAY

- a. In cases where outdoor dining or seating areas are proposed on a public sidewalk or other public right-of-way, establishment of the secondary use shall require approval of a site plan and execution of an encroachment agreement with the Town or NCDOT in accordance with Town policy, as appropriate.
- b. Outdoor dining and seating areas in a public right-of-way areas shall comply with the standards in NCGS§136-27.4, and the following:
  - i. All tables, chairs, and other furnishing shall be at least six linear feet from any vehicular travel lane;
  - ii. There shall be at least five feet of unobstructed sidewalk width maintained at all times across the frontage of a site with outdoor dining or seating areas on a public sidewalk;
  - iii. Awnings, umbrellas, and coverings shall maintain at least nine feet of clearance above sidewalks and shall not project out into the vehicle travelway;
  - iv. In no instance shall an outdoor dining or seating area be located adjacent to a street with a posted speed limit of 45 miles-per-hour or greater; and
  - v. No water misters, heaters, or mechanical climate control devices shall be located within the public right-of-way.



### W. PARKING OF HEAVY TRUCKS OR TRAILERS

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1. The parking or storage of motorized vehicles in excess of 26,000 pounds of gross vehicle weight rating as depicted on the vehicle manufacturer's emblem, or with more than two axles, shall be prohibited in accordance with Table 4.5.4, Listing of Common Secondary Uses, except for loading and unloading purposes; for emergency home service; for use in the conduct of a legal non-conforming use; for temporary construction purposes; or for bona fide agricultural purposes. **AMENDED 4.15.24 (UDOTA1-24)**
2. The parking or storage of non-motorized vehicles with more than two axles shall be prohibited in all residential districts except for loading and unloading purposes; for emergency home service; for use in the conduct of a legal non-conforming use; for temporary construction purposes; or for bona fide agricultural purposes.
3. In no instance shall a non-motorized vehicle have an overall length exceeding 22 feet not including the tongue or towing assembly.
4. No apparatus designed to be used as a motor vehicle or designed to be towed by a separate motorized unit or vehicle shall be used for the purposes of storage in any residential district.

### X. PARKING OF RECREATIONAL VEHICLES

---

1. Parking or storage of a recreational vehicle on a lot within a residential district shall be subject to these standards. Parking or storage of a recreational vehicle on a lot in a non-residential district shall be subject to the standards in Section 4.5.5HH, Vehicle Towing or Storage.
- ~~1.2.~~ No recreational vehicle (RV) shall be used as a permanent residence or business.
- ~~2.3.~~ Nothing in this section shall preclude a RV owner from parking the RV on a parcel of land they own provided the RV is not used as an occupied dwelling or business.
- ~~3.4.~~ Recreational vehicles shall meet the setbacks of a single-family dwelling in the zoning district in which it is located.
- ~~4.5.~~ An RV shall be parked on an improved surface of asphalt, concrete, gravel, or other all-weather surface suitable for vehicular parking. RV parking areas shall comply with all applicable driveway standards in Section 6.1.4, Driveways.. **AMENDED 4.15.24 (UDOTA1-24)**
- ~~5.6.~~ Sewer or water connections are not permitted.
- ~~6.7.~~ Any source of electricity must be solely intended for the RV and be on the same parcel of land as the RV.
- ~~7.8.~~ Removal of wheels of a recreational vehicle except for temporary repairs shall be prohibited.
- ~~8.9.~~ Any RV subject to these standards must be road ready and capable of moving within 24 hours.
- ~~9.10.~~ These standards shall not apply to RVs located within a lawfully established and operating recreational vehicle park.

### Y. PLAY EQUIPMENT

---

1. Play equipment shall comply with the setback requirements for the zoning district where located, though it may encroach into setbacks in accordance with Section 3.6.9, Setback Encroachments.
2. In no instance shall play equipment be located between the front façade of a residential dwelling and the street it faces in cases where the lot or tract is two acres or less in area.

### FF. VEHICLE REPAIR (NON-COMMERCIAL)

Up to two private vehicles may be repaired on residentially-zoned land, provided:

1. The vehicles are registered to the occupant of the residence; and
2. The repair takes place within an entirely enclosed structure or within an area meeting the standards in Section 6.6.13, Screening, and located to the interior side or rear of the principal structure.

### GG. VEHICLE TOWING OR STORAGE<sup>39</sup>

2. Vehicle towing or storage as a secondary use shall comply with the standards in Section 4.3.140, Vehicle Towing or Storage.

<sup>39</sup> See STN#19



## 6.1 ACCESS AND CIRCULATION

### 6.1.1 PURPOSE AND INTENT

The purpose of this section is to establish standards for the safe and efficient ingress into, egress from, and circulation within development sites in the Town's planning jurisdiction for vehicles, pedestrians, and bicyclists. More specifically, these standards are intended to:

- A. Protect the health and safety of the Town's residents and visitors;
- B. Clarify when access and circulation standards are applied to new development or redevelopment of existing sites;
- C. Establish uniform methods for site access and driveway configuration;
- D. Protect visibility for motorists, bicyclists, and pedestrians at intersections;
- E. Facilitate pedestrian movement around development sites; and
- F. Enable vehicles to travel from one parking lot to another without needing to enter a street right-of-way.

### 6.1.2 APPLICABILITY

#### A. GENERALLY

Unless otherwise expressly exempted from these standards elsewhere in this Ordinance, these access and circulation standards shall apply to all new development in the Town's planning jurisdiction.

#### B. REDEVELOPMENT<sup>40</sup>

Compliance with these standards shall also apply to redevelopment of an existing principal building, parking lot, or outdoor use that is proposed for an expansion or an increase in ~~intensity by 50 percent or more~~ total floor area, use area, or number of off-street parking spaces provided by 50 percent or more.

#### C. REVIEW REQUIRED

Revisions to the access or on-site circulation system of a developed lot or site shall require site plan approval in accordance with Section 2.3.21, Site Plan.

### 6.1.3 ACCESS TO LOTS

Except where authorized in accordance with Section 6.1.4D.5, Alternative Access, all development subject to these standards shall comply with the following:

#### A. ACCESS REQUIRED FOR ALL LOTS<sup>41</sup>

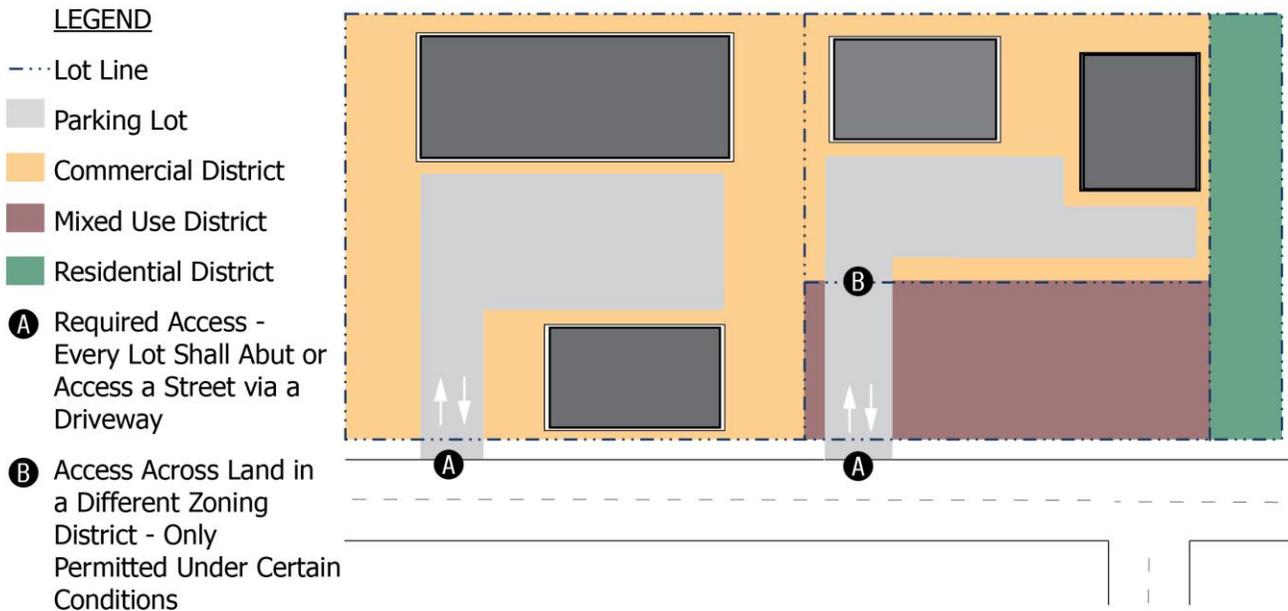
1. Every lot shall abut or have driveway access to a public or private street.
2. No building or structure shall be constructed or placed on a lot that does not abut or have driveway access to a public or private street.
3. Except for lots within conservation subdivisions, lots that abut a public or private street shall maintain at least 30 linear feet of street frontage along the abutting public or private street right-of-way. ~~Lots within a conservation subdivision shall maintain a minimum street frontage of at least 20 feet. Lots that do not abut a public or private street shall receive access via a driveway configured in accordance with Section 6.1.4, Driveways.~~

<sup>40</sup> See STN#56

<sup>41</sup> See STN#57

- 3.4. In the case of single-family attached residential dwellings, the parent parcel or tract containing the individual single-family attached dwelling lots shall maintain a minimum width of at least 30 feet.
- 5. Lots within a conservation subdivision shall maintain a minimum street frontage of at least 20 feet.
- 6. Lots that do not abut a public or private street shall receive access via a driveway configured in accordance with Section 6.1.4, Driveways.
- 4.7. Driveways may be located exclusively on the same lot as the building they serve, or may cross a lot under separate ownership, in order to access a public or private street.
- 5.8. In cases where a driveway must cross a lot under separate ownership, the driveway shall be located within a recorded access easement and may not extend through or across land in a different zoning district than the lot being served by the driveway (see Figure 6.1.3, Lot Access via Driveway). This requirement is waived when the land in the different zoning district:
  - a. Is classified as a business or mixed-use district; or
  - b. Allows the use being served by the direct access; or
  - c. Provides the sole means of access for the lot.

**FIGURE 6.1.3: LOT ACCESS VIA DRIVEWAY**



## B. DIRECT ACCESS TO MAJOR THOROUGHFARES

Lots serving individual residential dwelling units should generally not have direct access to a major thoroughfare street. Direct access to a major thoroughfare shall be configured in accordance with the following standards.

- 1. In cases where a vacant lot of record abuts a major thoroughfare and is proposed for development, access to the lot shall be obtained from a street other than the thoroughfare,

## 2. WIDTH AND DEPTH<sup>42</sup>

Table 6.1.4.D.2, Driveway Width and Depth for Residential Development, establishes the driveway width and depth requirements for residential developments (see Figure 6.1.4.D.2: Residential Driveway Width and Depth).

**TABLE 6.1.4.D.2: DRIVEWAY WIDTH AND DEPTH FOR RESIDENTIAL DEVELOPMENT**

TYPE OF DEVELOPMENT [1]	MINIMUM DRIVEWAY WIDTH (FEET)	MAXIMUM DRIVEWAY WIDTH (FEET) [2]	MINIMUM DRIVEWAY DEPTH (FEET) [3]
Single-Family Detached Home on its Own Lot	10 [4]	24 [5]	<del>20</del> 25
Duplex Dwelling	10 [4]	24 [6]	25
Triplex/Quadplex	12	24 [6]	25
Single-Family Attached Dwelling with a Driveway on the Same Lot	10	[7]	20
Single-Family Attached Development with Shared Parking and Multi-family Development	One way: 15	One way: 18	[9]
	Two way: 30 [8]	Two way: 45	

**NOTES:**

[1] Standards for Mixed-Use, Live/Work, and Upper-story Residential are included in the corresponding table for non-residential development.

[2] Only applied within the portion of the driveway subject to the minimum depth requirement.

[3] Measured from the edge of the right-of-way inwards. All driveways shall be the minimum depth necessary to ensure that no vehicle protrudes past the edge of the lot line.

[4] Increased to 15 feet when part of a shared driveway serving two or more different lots.

[5] When two driveways abut one another, the maximum width shall not exceed 24 feet. Two driveways shall not be considered to be abutting when there is at least six feet of unpaved area between each driveway edge.

[6] Individual driveways on the same lot and located outside a required setback area shall maintain a minimum spacing of at least 20 feet from one another.

[7] Shall not exceed the lesser of: 24 feet or the lot's width.

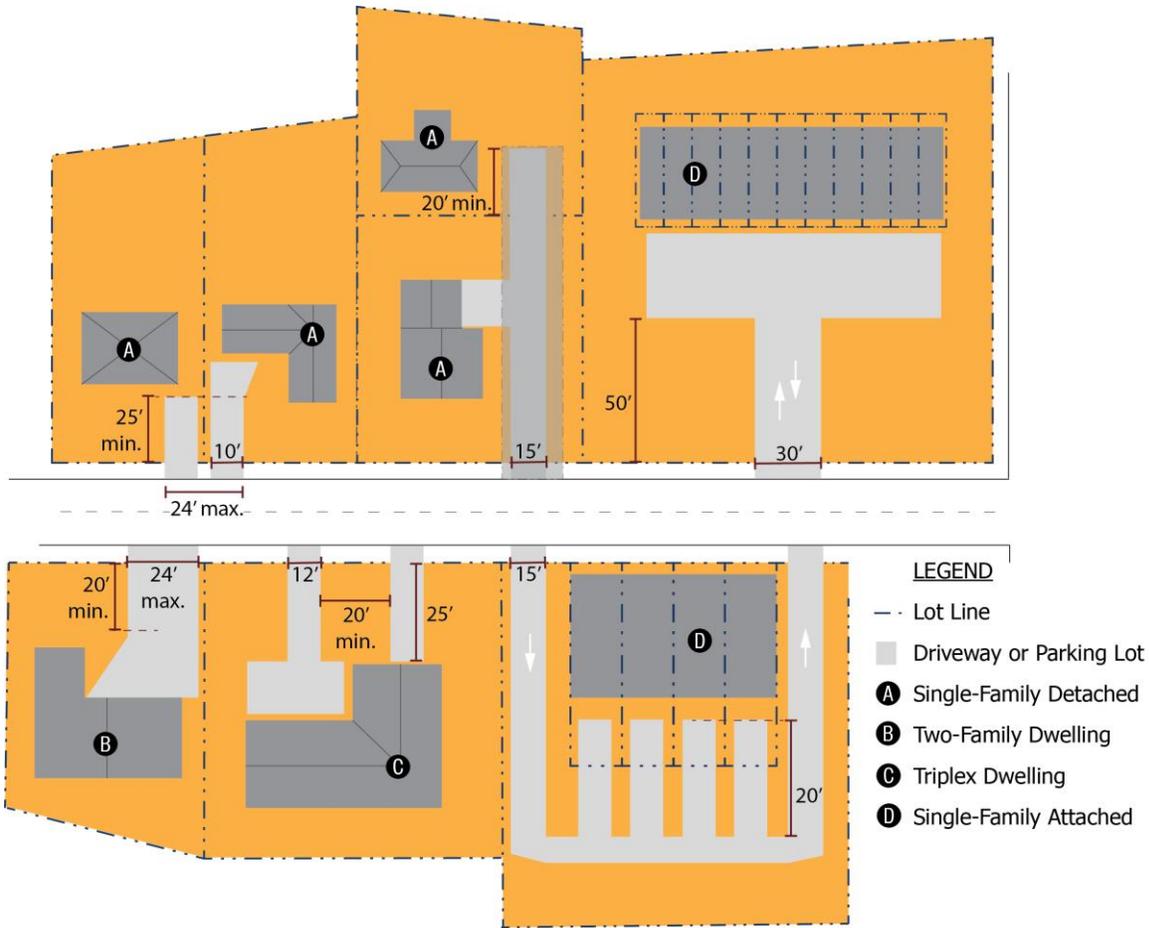
[8] Shall increase by up to five feet with inclusion of a center median. Minimum accessway width of at least 15 feet required on each side of median.

[9] In accordance with Section 6.1.4E.4, Minimum Parking Lot Accessway Width and Depth.

**FIGURE 6.1.4.D.2: RESIDENTIAL DRIVEWAY WIDTH AND DEPTH**

<sup>42</sup> See STN#58 & 59





### 3. REQUIRED NUMBER

- a. The maximum number of driveway access points serving an individual single-family detached, duplex, triplex, or quadplex dwelling on its own lot shall be two, but the lot shall maintain a minimum lot width of at least 80 linear feet. Lots with lot widths less than 80 feet shall be limited to a maximum of one driveway. Alley-loaded driveways are not included in the number of driveways calculation.
- b. The maximum number of driveway access points serving an individual single-family attached dwelling on its own lot shall be one. Developments of up to six single-family attached dwellings may be configured to include individual driveways on commonly-owned land, provided all driveways meet the spacing requirements in this Ordinance.
- c. The minimum number of driveways serving a multi-family residential development shall be:
  - i. One for developments of 100 or fewer units;
  - ii. Two for developments of 101 to 300 units; and
  - iii. One additional driveway for every 100 units beyond 300.
- d. The number of driveway access points serving a multi-family residential development may be restricted where it is necessary for purposes of decreasing traffic congestion or hazards. These restrictions may include required common or shared access points.

#### 4. SPACING<sup>43</sup>

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

#### 5. ALTERNATIVE ACCESS

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

##### a. MULTIPLE RESIDENTIAL LOT DEVELOPMENT

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

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

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

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

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

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

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

##### d. ACCESS EASEMENT<sup>44</sup>

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

<sup>43</sup> See STN#105

<sup>44</sup> See STN#61 & 116

3. The location of the easement shall be recorded on a plat; and
  4. The easement shall be configured to permit safe ingress, egress, regress, and necessary utilities to serve the lot; and
  5. All residential units proximate to the easement shall maintain a minimum setback from the edge of the access easement that is comparable to or greater than the minimum street setback for the zoning district where located.
- 4.iii. The 50-foot right-of-way width may be reduced to 30 feet by the Planning Director in cases where the accessway cannot be extended due to existing development, topography, or other limitations.

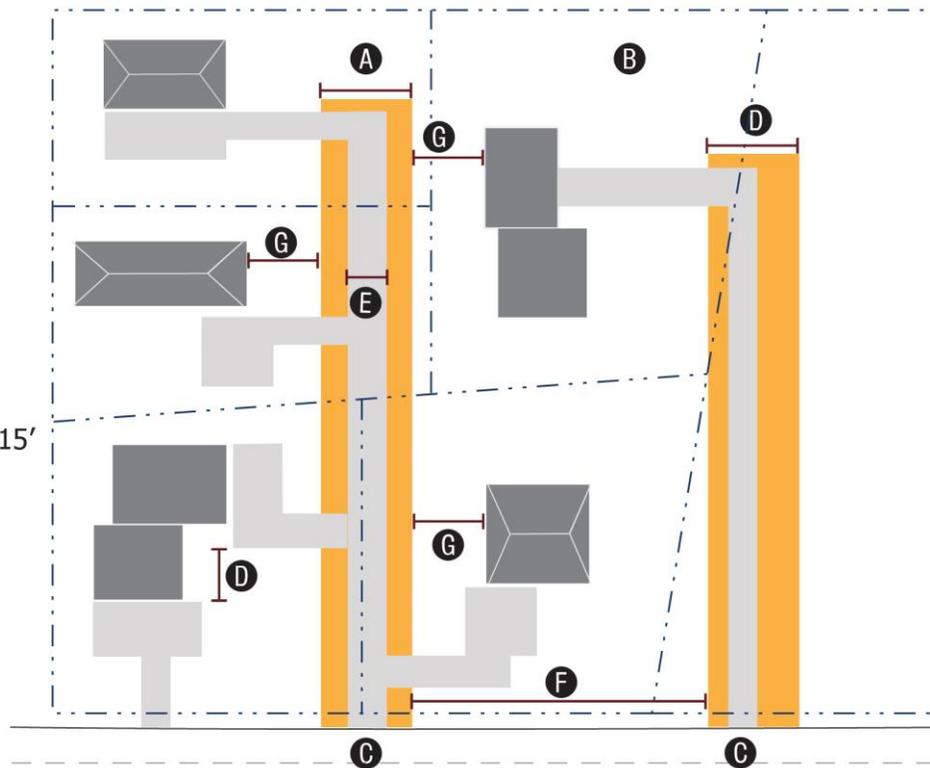
#### e. MAINTENANCE

The landowners who benefit from the access easement associated with a shared driveway shall be responsible for maintenance of the driveway and access easement. In no instance shall the Town be responsible for maintenance of driveways or access easements.

**FIGURE 6.1.4.D.5: ALTERNATIVE LOT ACCESS**

#### LEGEND

-  Driveway
-  Access Easement
- A** Easement Min. Width 50'
- B** Lot of Record
- C** Public Street Access
- D** Min. Separation between Driveways
- E** Shared Access Min. Width 15'
- F** Min. Separation 50'
- G** Min. Setback from Easement = district street setback distance



## E. NON-RESIDENTIAL DRIVEWAYS

### 1. DESIGN

- a. Non-residential driveway access to and from streets shall be constructed in accordance with the standards and specifications provided in *Policy on Street and Driveway Access to North Carolina Highways*, as adopted and amended by NCDOT.
- b. In cases where a development includes outparcels, the outparcel shall be directly accessible from the vehicular accessways serving the larger development in addition to access from the adjacent public street network.



#### 2. NUMBER<sup>45</sup>

The number of driveway access points may be restricted by the Town or NCDOT, as appropriate, where it is necessary for purposes of decreasing traffic congestion or hazards. These restrictions may include required common or shared access points.

#### 3. SPACING

Approval of driveway access between a lot and the right-of-way at an interval less than those specified in the *Policy on Street and Driveway Access to North Carolina Highways*, manual, as adopted and amended by NCDOT, may be granted subject to the approval of the Town Engineer and NCDOT.

#### 4. MINIMUM PARKING LOT ACCESSWAY WIDTH AND DEPTH<sup>46</sup>

- a. Driveways serving off-street parking lots shall comply with the standards for minimum depth in Table 6.1.4.E: Parking Lot Accessway Width and Depth.
- b. ~~In no instance shall a parking lot be configured to allow access to an individual off-street parking space, drive aisle, or other vehicular accessway at a point closer to the street right-of-way than the minimum parking lot accessway depth.~~ A parking lot accessway shall be configured to prevent a turning movement into a parking space or intersecting drive aisle until after the minimum required depth has been surpassed (see Figure 6.1.4.E: Parking Lot Accessway Depth).
- c. In cases where a development is subject to a transportation impact analysis, the parking lot accessway depth specified in the transportation impact analysis shall control.
- d. Nothing shall limit a parking lot accessway from having a deeper depth than specified in this subsection.

TABLE 6.1.4.E: PARKING LOT ACCESSWAY <u>WIDTH AND DEPTH</u>				
NUMBER OF PROVIDED OFF-STREET PARKING SPACES IN PARKING LOT	MINIMUM DRIVEWAY WIDTH (FEET) [1]		MINIMUM PARKING ACCESSWAY DEPTH (FEET) [13] [24]	
	ONE-WAY TRAFFIC	TWO-WAY TRAFFIC [2]	FROM A TOWN-MAINTAINED STREET	FROM A NCDOT-MAINTAINED STREET
10 or less	<u>12</u>	<u>24</u>	25	As determined by NCDOT
11 to 50			50	
51 to 100			75	
101 to 200			100	
201 or more			As determined by the Engineering Director	

NOTES:  
 [1] The maximum width for a one-way parking lot accessway shall be 20 feet (excluding medians). The maximum width for a two-way parking lot accessway shall be 36 feet (excluding medians).

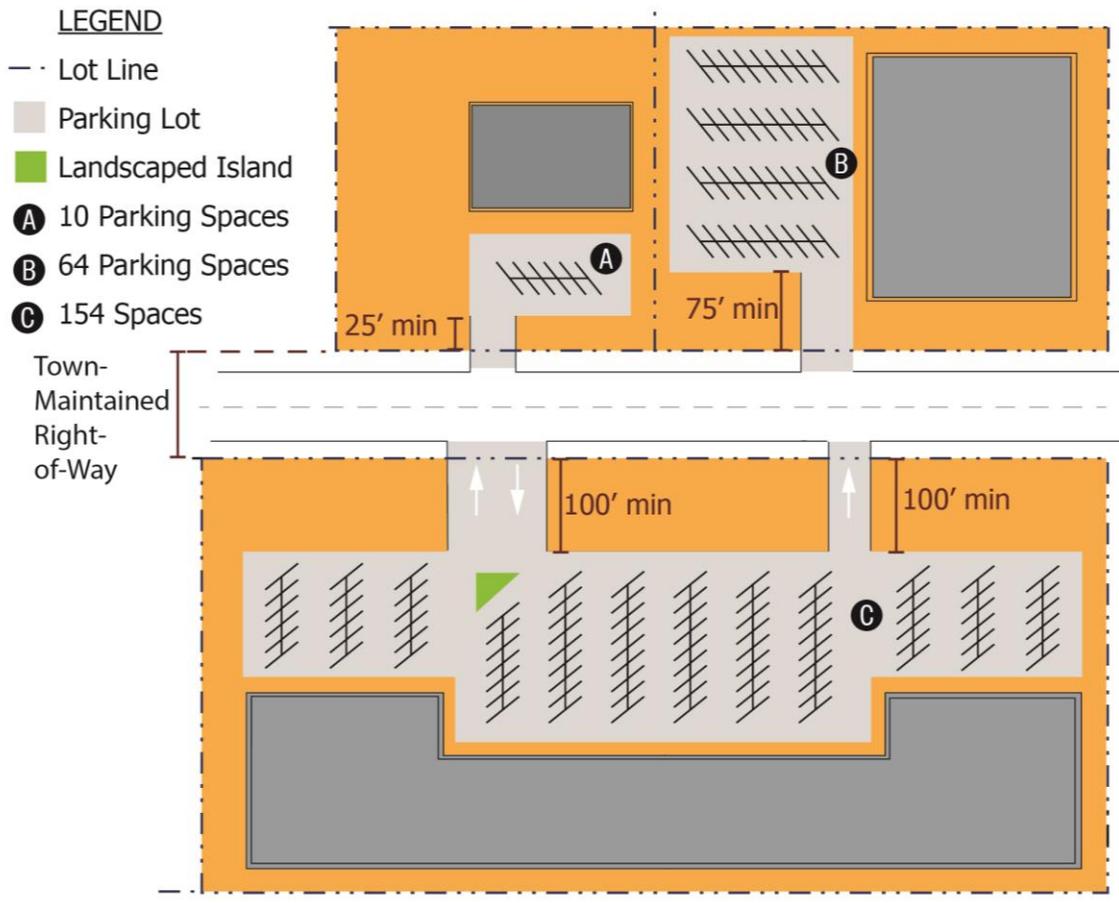
<sup>45</sup> See STN#63

<sup>46</sup> See STN#18, 62, 65, & 109



TABLE 6.1.4.E: PARKING LOT ACCESSWAY <u>WIDTH AND</u> DEPTH				
NUMBER OF PROVIDED OFF-STREET PARKING SPACES IN PARKING LOT	MINIMUM DRIVEWAY WIDTH (FEET) [1]		MINIMUM PARKING ACCESSWAY DEPTH (FEET) [13] [24]	
	ONE-WAY TRAFFIC	TWO-WAY TRAFFIC [2]	FROM A TOWN-MAINTAINED STREET	FROM A NCDOT-MAINTAINED STREET
<p>[2] Travel lane widths on two-way driveways may differ when required by the Engineering Director.</p> <p>[3] Measured from the edge of the right-of-way serving the parking lot.</p> <p>[24] The Engineering Director may require a planted landscaping island opposite the accessway where necessary for access management or traffic control.</p>				

**FIGURE 6.1.4.E: PARKING LOT ACCESSWAY DEPTH**



**F. SHARED ACCESS**

Shared driveways may be required between adjacent lots fronting on a thoroughfare in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots.



4. Vehicular safety factors exist or would be created including, but not limited to, unsafe turning movements or pedestrian conflicts;
5. Sufficient access already exists without need for additional parking lot connections;
6. Residential, institutional, or other incompatible land uses are present on adjacent lots;
7. Existing infrastructure obstructions; or
8. Other safety or security concerns, or topographic constraints, in the sole opinion of the Town Engineer.

#### D. CONFIGURATION<sup>47</sup>

Parking lot connections shall join parking lots on two or more different lots (see Figure 6.1.6: Parking Lot Connections) subject to these standards:

1. A parking lot connection shall be included on at least two sides of a lot except when conditions prevent connections in accordance with [Section 6.1.6C, Exemptions](#);
2. Parking lot connections shall be paved with asphalt, concrete, or pavers and shall maintain a minimum width of 12 feet for one-way traffic and 24 feet for two-way traffic;
3. All parking lot connections shall be built to the lot line, to the maximum extent practicable; and
4. A minimum distance of ~~60~~50 feet shall be required between a parking lot connection and the intersection of a driveway entrance and a street. This distance may be reduced as necessary to connect with an existing cross access way on an abutting lot, in the sole discretion of the Engineering Director.

#### E. IMPACT ON REQUIRED SITE FEATURES

1. Where a required parking lot connection eliminates a required landscape planting area, the landscaping requirements shall be reduced to accommodate the cross-accessway and replacement landscaping shall not be required.
2. When a required parking lot connection eliminates required off-street parking spaces, replacement parking spaces shall not be required.
3. The cross-accessway may be used for off-street parking until cross access on the adjacent lot is complete and the accessway is opened to permit vehicular traffic between the two lots provided this is noted on approved Site Plans and Construction Drawings

#### F. EASEMENT REQUIRED

A parking lot connection easement shall be dedicated on the final plat for property involving a subdivision, or deeded by a separate recorded instrument, when no plat is proposed.

#### G. CONNECTION REQUIRED

Development subject to these standards shall install parking lot connections to the shared lot line. In the event development subject to these standards can not achieve a required parking lot cross-access connection, the applicant shall provide a fee-in-lieu in accordance with [Section 2.3.13, Fee-in-Lieu](#).

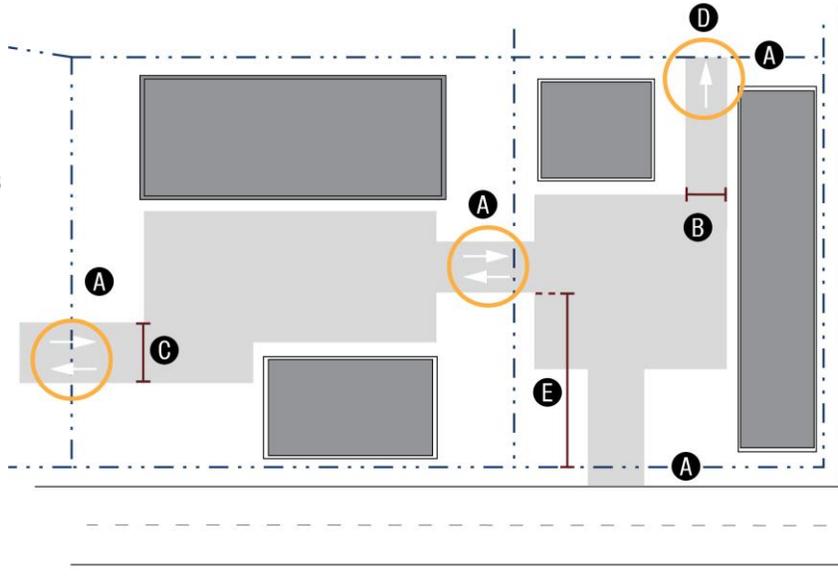
**FIGURE 6.1.6: PARKING LOT CONNECTIONS**

<sup>47</sup> See STN# 66 & 102



#### LEGEND

- Lot Line
- Parking Lot
- Parking Lot Connection
- Ⓐ Connection on at Least Two Sides of a Lot
- Ⓑ One-way Traffic Connection Min. 12' Width
- Ⓒ Two-way Traffic Connection Min. 24' Width
- Ⓓ Connection Built to Lot Line
- Ⓔ 50' Minimum Distance Between Driveways and/or Roadways



## 6.1.7 SIGHT DISTANCE TRIANGLES

### A. SIGHT DISTANCE TRIANGLES ESTABLISHED

Corner lots and lots with driveways, alleys, or other methods of ingress/egress to a street shall include sight distance triangles to ensure visibility for drivers and pedestrians moving through or in an intersection. Required sight distance triangles shall be configured in accordance with Table 6.1.7: Sight Distance Triangle Requirements. Land within a required sight distance triangle shall comply with the standards in Section 6.1.7C, Limitations on Obstructions within Required Sight Distance Triangles.

**TABLE 6.1.7: SIGHT DISTANCE TRIANGLE REQUIREMENTS**

TYPE OF STREET, INTERSECTION, OR DRIVEWAY		MINIMUM SIGHT DISTANCE CONFIGURATION REQUIRED [1][2]
Intersections of street [3]		10/70
Driveways serving parking lots		10/70
Driveways serving individual land uses without parking lots	Single-family detached, single-family attached, Duplex, Triplex, Quadplex	None
	All other uses of land	10/70, wherever possible

#### NOTES:

- [1] The NCDOT or the Town may require an alternative sight distance triangle configuration.
- [2] AASHTO requirements shall be applied to curved or curvilinear streets.
- [3] Includes all streets (State-maintained or Town-maintained).



**TABLE 6.2.3.B: APPLICABILITY OF MIXED-USE DESIGN STANDARDS TO EXISTING SITES**

TYPE OF STRUCTURE OR ACTIVITY	APPLICABILITY OF MIXED-USE DESIGN STANDARDS
Interior or exterior upfit of an existing principal structure with no addition of floor space constructed prior to January 2, 2024, or not subject to the mixed-use design standards	Exempt from mixed-use design standards
Site improvement of an existing site with no changes to existing principal structure(s)	Mixed-use design standards not applicable
Construction of a new secondary structure	Secondary structures must be <del>complimentary</del> <b>complementary</b> to the principal structure in terms of form and materials

**NOTES:**

[1] Activity resulting in the addition of new floor area only shall be exempted from these standards if the addition or expansion:

- a. Physically touches the existing structure; and
- b. Is enclosed by walls and a roof; and
- c. Includes conditioned space; and
- d. Allows direct access between the existing structure and the addition or expansion without having to walk outside or through unconditioned space.

6. These mixed-use design standards apply to all buildings located within a mixed-use development, whether vertically integrated in a single building or horizontally integrated in two or more side-by-side buildings on a single site.

### C. EXEMPTIONS

These standards shall not be applied to the following forms of development:

1. Agriculture-related uses;
2. Renovation of existing structures in the DTNC, DTNT, or DTNN districts; and
3. Mixed-use development established prior to January 2, 2024.

### D. TIMING OF REVIEW

Review for compliance with these standards shall take place during review of an associated rezoning, Site Plan, or Special Use Permit, as appropriate.

### E. DESIGN REQUIREMENTS

Development subject to these standards shall be designed in accordance with the following:

#### 1. MIXED-USE STREET NETWORK<sup>49</sup>

In cases where mixed-use development involves the construction of new streets or alleys, the new streets, whether public or private, shall be configured in accordance with the following standards:

<sup>49</sup> See STN# 70



- a. Streets shall be organized into a grid pattern with block lengths that do not exceed 500 feet;
- b. Streets shall be configured to a design speed of 25 miles per hour;
- c. Streets shall include traffic-calming features such as roundabouts, raised pedestrian crossings, bulb-outs, speed tables, raised medians, and chicanes, but excluding speed bumps, which shall not be included;
- d. Streets shall include well-defined ADA-compliant crosswalks and small turning radii at intersections;
- e. Streets shall include bicycle lanes in ~~cases where the roadway is subject to size or volume constraints, such as in the downtown area~~ accordance with the Town's adopted policy guidance;
- f. Streets shall include sidewalks configured in accordance with **Section 6.10.2, Sidewalks and Multi-Use Paths**;
- g. Mid-block alleys shall be included to facilitate off-street parking and to accommodate service functions; and
- h. Cul-de-sacs and dead-end streets are prohibited, except where topography or natural features make them necessary.

## 2. MIXED-USE BUILDING ORIENTATION

### a. SINGLE BUILDING DEVELOPMENT

New development consisting of a single building shall be oriented such that the long axis of the building is either parallel or perpendicular to the street right-of-way it faces. This standard may be waived when topographic constraints make compliance impractical, in the sole discretion of the Planning Director.

### b. MULTIPLE BUILDING DEVELOPMENT<sup>50</sup>

Development comprised of multiple buildings shall be configured with two or more of the following design elements (see Figure 6.2.3.E.2, Multiple Building Development):

- i. Site configuration as a series of smaller "blocks" defined by buildings fronting on-site streets and internal vehicle accessways, utilizing pedestrian-oriented design such as walkways, or other circulation routes and multi-modal transportation access/waiting areas when appropriate;
- ii. Corner buildings designed to front both sides of an adjacent street intersection or entry point to the development in an "L" configuration;
- iii. Buildings facing each other across a relatively narrow vehicular access area with pedestrian amenities in a "main street" character;
- iv. Buildings enclosing at least three sides of parking areas, public spaces, or other site amenities; or
- v. Buildings enclosing framing outdoor dining or gathering spaces for pedestrians between buildings.

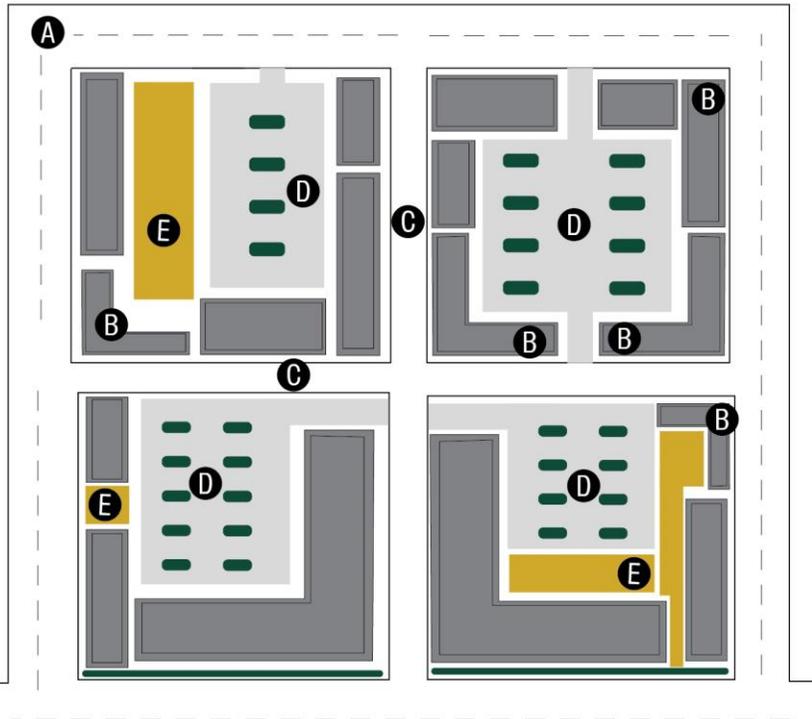
<sup>50</sup> See STN#72



FIGURE 6.2.3.E.2: MULTI-BUILDING DEVELOPMENT

**LEGEND**

- A** Small "Blocks" Site Configuration
  - B** Corner Buildings Front Both Sides of Street Intersection
  - C** On-site Streets, Pedestrian Walkways, or Other Circulation
  - D** Buildings Enclose at Least Three Sides of Parking Areas
  - E** Buildings Frame Gathering Space
  - F** Corner Buildings Frame Development Entry Point
- Parking Lot  
 Landscaped Area  
 Gathering Space



### 3. MIXED-USE BUILDING LOCATION<sup>51</sup>

- a. ~~Buildings on lots bounding streets shall be built to the edge of the sidewalk.~~ In the case of double or reverse frontage lots, the building shall be located adjacent to the street providing the street address for the building.
- b. When development is proposed on a corner lot, the building shall be configured to occupy the lot corner at the street intersection.
- c. Nothing shall prevent a mixed-use building from exceeding a maximum street setback, provided the area between the building front and the maximum street setback is occupied by a public gathering space, open space set-aside, or an area used for outdoor dining and seating.

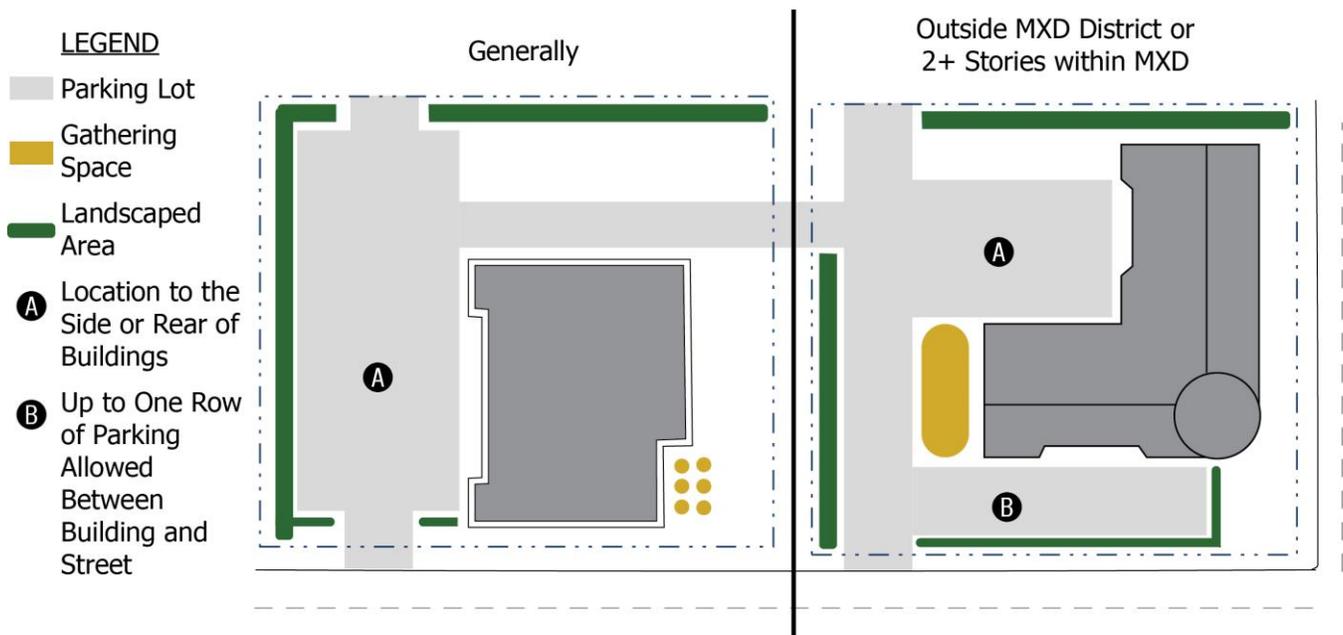
<sup>51</sup> See STN#24 & #73

- c. Nothing shall limit the rear two thirds of the street level floor from being used for residential purposes.
- d. In cases where a building is required to include ADA-accessible dwelling units, none of the street level floor area must be occupied by a non-residential use.

#### 6. OFF-STREET PARKING LOCATION<sup>52</sup>

- a. Off-street parking areas shall be located to the side or rear of buildings subject to these standards.
- b. ~~Mixed-use buildings located outside the MXD district and with two or more habitable stories may be configured to allow up to one row of off-street parking spaces between the building and the street it fronts (see Figure 6.2.3.E.6, Off-Street Parking Location). All other off-street parking shall be located to the side or the rear of a mixed-use building.~~

**FIGURE 6.2.3.E.6: OFF-STREET PARKING LOCATION**



<sup>52</sup> See STN# 75

## 7. MIXED-USE BUILDING ARTICULATION<sup>53</sup>

Buildings subject to these standards shall be configured so that no single facade fronting a public street shall extend for longer than 35 linear feet without inclusion of one or more of the following features (see Figure 6.2.3.E.7, Mixed-use Building Articulation):

- a. The use of projections or recesses in the building façade wall with a minimum depth of 18 inches from the primary facade plane and a minimum span of eight feet;
- b. The use of columns, pilasters, or other architectural detail harmonious with the general design of the structure with a minimum width of eight inches and spaced no less than every ten feet on-center;
- c. Distinct changes in building material that are vertically aligned with variations in roof form and parapet heights;
- d. Inclusion of weather protection for pedestrians, such as awnings, canopies, or overhangs above doors and windows as found along the entire building frontage abutting a street. Weather protection shall extend outwards from the building façade at least five feet. Execution of an encroachment agreement is required in cases where weather protection features extend into the public right-of-way; or
- e. A single vertical accent or focal point such as a tower feature located on a prominent building corner.

**FIGURE 6.2.3.E.7: MIXED-USE BUILDING ARTICULATION**

LEGEND

- A** Projections or Recesses in the Facade Wall  
(Depth Between 18-36" and Min. Span 8')
- B** Columns, Pilasters, or Other Architectural Detail  
(Spaced Max. 10' On-center)
- C** Changes in Building Material  
(Vertically Aligned with Roof Form Changes)
- D** Weather Protection  
(Over windows and doors)
- E** Single Vertical Accent Point on Corner



53

## VOLUNTARY COMPLIANCE WITH MULTI-FAMILY RESIDENTIAL DESIGN STANDARDS

The single-family attached development depicted on the attached site plan or subdivision plat is subject to the Town of Clayton's Multi-family Residential Design Standards in place at the time the application for this development was determined to be complete. I hereby voluntarily consent to the application of these design standards, the acceptance of which shall run with the land regardless of changes in ownership, and recognize that failure to comply with the applicable requirements following approval is a violation of the Clayton Unified Development Ordinance.

\_\_\_\_\_  
Landowner Signature

\_\_\_\_\_  
Date

- b. The signed statement of consent and an associated plan depicting how the development complies with these standards shall be recorded in the office of the Register of Deeds for the county where the development is located prior to issuance of a building permit.

### C. TIMING OF REVIEW

Review for compliance with these standards shall take place during review of an associated type 3 Conditional Rezoning, Site Plan, or Special Use Permit, as appropriate.

### D. DESIGN REQUIREMENTS

Development subject to these standards shall be designed in accordance with the following:

#### 1. MULTI-FAMILY STREET NETWORK

- a. On sites including new streets, whether public or private, an interconnected network of streets shall be provided, to the maximum extent practicable, and streets shall connect to adjacent existing streets outside of the development.
- b. Vehicular driveways into a development with 10 or more dwelling units shall be at least 100 feet away from any major intersection to the maximum extent practicable.
- c. Driveways shall be consolidated in order to reduce curb cuts, to the maximum extent practicable.

#### 2. MULTI-FAMILY BUILDING ORIENTATION<sup>54</sup>

- a. Buildings ~~that abut~~ fronting and located within 100 feet of an abutting streets shall be oriented parallel to the street they front rather than being oriented at an angle to the street.
- b. On corner lots, the long axis of the building shall be parallel to the longest lot frontage unless such orientation is incompatible with adjacent, existing development along the same street (see Figure 6.2.4.D.2, Multi-family Building Orientation).
- c. Buildings within multiple-building developments shall be clustered in order to define open space recreation areas and development entry points.

<sup>54</sup> See STN#8



#### 4. MULTI-FAMILY BUILDING FACADES<sup>55</sup>

- a. Buildings subject to these standards shall maintain a consistent level of architectural detailing and composition on each building façade **facing a street**.
- b. **All** building facades **facing streets** shall provide a minimum of three of the following architectural elements (see Figure 6.2.4.D.4, Multi-Family Building Facades):
  - i. A covered porch or terrace;
  - ii. ~~One~~ **Two** or more dormer windows or cupolas;
  - iii. Eyebrow windows;
  - iv. Awnings or overhangs;
  - v. Decorative moldings;
  - vi. Shutters **on at least three quarters of the windows**;
  - vii. Pillars, posts, or pilasters;
  - viii. ~~One~~ **Two** or more bay windows with a minimum twelve-inch projection from the facade plane;
  - ix. Multiple windows with a minimum of four-inch-wide trim;
  - ~~x. Corniced parapets;~~
  - ~~xi.~~ **x.** Eaves with a minimum of four-inch-wide trim; or
  - ~~xii.~~ **xi.** Integral planters that incorporate landscaped areas and/or places for sitting.

**FIGURE 6.2.4.D.4: MULTI-FAMILY BUILDING FACADES**



- c. Garage entries, loading and service entries, utility rooms, stairs, elevators, or similar features shall not occupy more than 20 percent of the width of a building façade **facing a street**.
- d. Attached **street-facing** garages serving individual dwelling units shall be recessed at least three feet inwards from the primary first floor façade plane or be associated with an upper-story projection that exists above the garage.

<sup>55</sup> See STN#6 & 78



**5. BUILDING FAÇADE VARIATION IN MULTI-BUILDING DEVELOPMENTS**

Multi-family developments with three or more principal buildings shall provide variation between the different buildings in accordance with the following standards:

**a. MINIMUM NUMBER OF VARIATION ELEMENTS TO BE INCLUDED**

Multi-family development comprised of three or more principal buildings shall incorporate a minimum number of variation elements in accordance with Table 6.2.4.D.5: Multi-Family Building Variability:

TABLE 6.2.4.D.5: MULTI-FAMILY BUILDING VARIABILITY	
NUMBER OF PRINCIPAL BUILDINGS IN THE MULTI-FAMILY DEVELOPMENT	MINIMUM NUMBER OF VARIATION ELEMENTS TO INCLUDE [1][2]
Three to Five	Two
Six to Eight	Three
Nine to Eleven	Four
Twelve or More	Five

NOTES:  
 1] Variation elements must be provided on each different building. All or the majority of the features may not be located on a single building.  
 [2] The menu of different variation elements are listed in Section 6.2.4D.5.b, Menu of Variation Elements.

**b. MENU OF VARIATION ELEMENTS<sup>56</sup>**

Multi-family developments comprised of three or more principal buildings shall provide the minimum number of the following variation elements in accordance with Table 6.2.4.D.5, Multi-Family Building Variability. Nothing shall prevent a development from including more than the minimum number of required building variation elements.

- i. One or more principal buildings has a maximum height of one or more stories either greater than or less than average number of stories of the other principal buildings.
- ii. One or more of the principal buildings has a footprint that differs in square footage by 25 percent or more than the average principal building footprints of the other principal buildings.
- iii. One or more of the principal buildings has a different primary exterior color than the other principal buildings.
- ~~iv. One or more of the principal buildings incorporates required architectural elements from Section 6.2.4D.4, Multi-Family Building Facades, on building facades that do not face streets.~~
- ~~vi.iv.~~ One or more principal buildings has a different primary exterior material than the other principal buildings (use of the same material with a different color is insufficient). Use of brick as a primary material on all principal buildings shall be credited as compliance with this element.
- ~~vi.v.~~ One of more of the principal buildings has a different roof style (gabled, shed, flat, hip, etc.) than the other principal buildings (use of the same combination of roof forms on each principal building is insufficient).

<sup>56</sup> See STN#6



## 7. MULTI-FAMILY BUILDING ARTICULATION<sup>57</sup>

- a. ~~Street-facing~~ Building facades shall be articulated with wall offsets, in the form of recesses or projections from the primary façade plane, of at least two feet for every 35 linear feet of facade frontage (see Figure 6.2.4.D.7, Multi-family Façade Articulation).
- b. Projections or recesses shall occupy at least one building floor, and may extend downwards to the grade or upwards beyond the primary roof line.

**FIGURE 6.2.4.D.7: MULTI-FAMILY FAÇADE ARTICULATION**



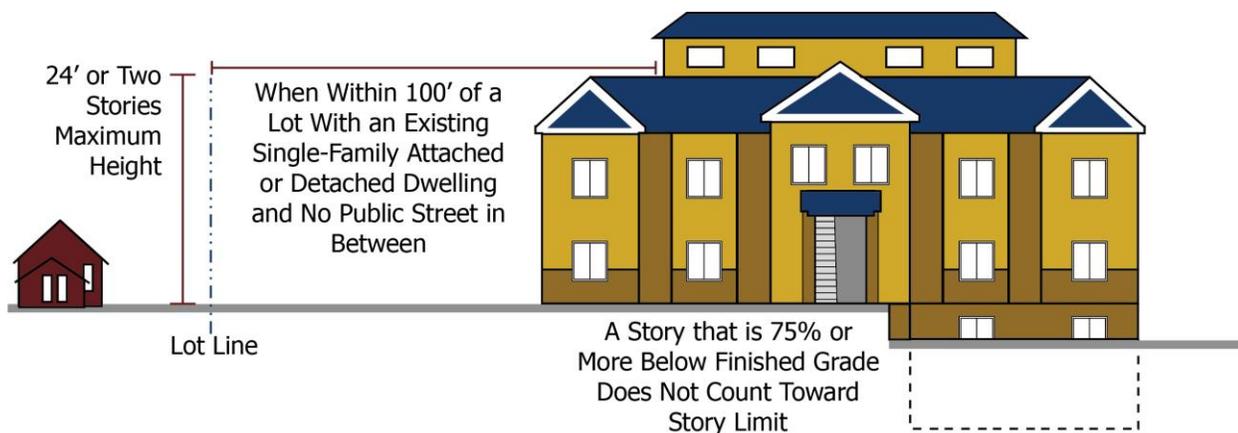
## 8. MULTI-FAMILY BUILDING HEIGHT<sup>58</sup>

- a. Buildings subject to the standards of this section shall have a maximum height that is the lesser of two stories or ~~18-24~~ feet, when within 100 feet of a lot with an existing single-family detached or existing single-family attached residential dwelling, without an intervening street. This standard shall apply regardless of any incentives, administrative adjustments, or conditional rezoning conditions (see Figure 6.2.4.D.8, Multi-family Building Height).
- b. Building stories that are 75 percent or more below the finished grade at the front of the lot shall not be counted towards the number of allowable stories.

**FIGURE 6.2.4.D.8: MULTI-FAMILY BUILDING HEIGHT**

<sup>57</sup> See STN#6

<sup>58</sup> See STN#103



## 9. MULTI-FAMILY ROOF FORM

- a. New multi-family development shall incorporate roof pitches between 3:12 and 12:12, or shall incorporate parapet walls with a dimensional cornice around a flat roof.
- b. Alternative roof forms or pitches are encouraged for small roof sections over porches, entryways, or similar features.
- c. Buildings with eaves shall be configured such that no single horizontal eave continues for more than 60 linear feet without being broken up by a gable, building projection, or articulation feature.
- d. Overhanging eaves and roof rakes shall extend at least six inches beyond supporting walls.

## 10. MULTI-FAMILY BUILDING MATERIALS AND COLORS

### a. CONFIGURATION

- i. Buildings subject to these standards shall include at least two primary exterior materials on any single building.
- ii. Changes in colors and materials shall take place at internal corners or in logical locations, such as: building wings, bays, bump-outs, or recesses (see Figure 6.2.4.D.10, Multi-family Building Materials). In no instance shall exterior materials or colors change at outside corners.
- iii. Heavier or more bulky exterior materials shall be located beneath or below lighter materials.

### b. PROHIBITED MATERIALS

The following materials shall be prohibited on any façade facing a street, open space, or district intended primarily for single-family detached development:

- i. Vinyl, asphalt, or aluminum siding;
- ii. Smooth-faced concrete block;
- iii. Corrugated metal siding; or
- iv. Synthetic stucco within two feet of the grade.

**FIGURE 6.2.4.D.10: MULTI-FAMILY BUILDING MATERIALS**



## LEGEND

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



## 11. MULTI-FAMILY SECONDARY STRUCTURES

In addition to the standards in Section 4.5, Secondary Uses, secondary uses and structures associated with a development subject to these standards shall comply with the following:

- a. Street-facing detached garages on corner lots shall be located to the side or rear of buildings;
- b. Access to secondary structures (such as garages, carports, storage areas, etc.) shall be provided from alleys or secondary streets to the maximum extent practicable;
- c. Secondary buildings shall include exterior materials, colors, and roof form designed to be consistent with the principal structure;
- d. Secondary structures shall not physically obstruct pedestrian entrances; and
- e. Centralized refuse collection containers, if provided, shall be in an enclosed area located to the rear of principal buildings.

## 12. MULTI-FAMILY SITE FEATURES<sup>59</sup>

- a. Multi-family development accessed by a public street, private street, or a driveway shall not include a gate or obstruction that blocks access to the site for vehicles. Multi-family development accessed via a private street or driveway may include a vehicular gate in accordance with Section 6.5.12L, Vehicular Gates.
- b. Off-street parking serving guests shall be evenly distributed throughout the development.
- c. Shared refuse collection containers shall be evenly distributed throughout the development or be centrally located.
- d. Detached garages or carports shall not be located between the principal building and the street it faces.

<sup>59</sup> See STN#7



## 4. EXPANSIONS AND ADDITIONS TO EXISTING USE TYPES<sup>60</sup>

The demolition, addition, or expansion of existing structures identified in this section in accordance with the following table:

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

TYPE OF STRUCTURE OR ACTIVITY	APPLICABILITY OF MIXED-USE DESIGN STANDARDS
New principal structure(s) on a vacant site	Full compliance required
Construction of a new principal structure following removal of an existing principal structure	Full compliance required
Addition or expansion to an existing principal structure already subject to the non-residential design standards	Full compliance required
Addition or expansion to an existing principal structure constructed prior January 2, 2024, or not subject to the non-residential design standards [1]	Exempt from non-residential design standards
Interior or exterior upfit of an existing principal structure with no addition of floor space constructed prior to January 2, 2024, or not subject to the non-residential design standards	Exempt from non-residential design standards
Site improvement of an existing site with no changes to existing principal structure(s)	Non-residential design standards not applicable
Construction of a new <u>detached</u> secondary structure	<u>Detached</u> secondary structures must be <u>complimentary/complementary</u> to the principal structure in terms of form and materials
<u>Secondary structures, like walk-in coolers, storage rooms, equipment areas, or similar structures that are attached to and accessed from within the principal structure are considered an addition or expansion</u>	<u>If the principal structure is already subject to the non-residential design standards, then full compliance required; if the principal structure is exempted from the non-residential design standards, then these secondary structures must be complementary to the principal structure in terms of form and materials</u>

NOTES:

<sup>60</sup> See STN#12



#### 4. NON-RESIDENTIAL BUILDING ARTICULATION

Building walls subject to these standards shall include articulation features in accordance with the following standards (see Section 6.2.5E, Non-Residential Building Walls Distinguished).

##### a. NUMBER OF ARTICULATION FEATURES REQUIRED<sup>61</sup>

The minimum number of articulation features to be provided on any single building wall depends upon whether the wall is a primary, secondary, or a tertiary wall. Nothing shall limit a building wall from providing more articulation features than the minimum number required by this section. In no instance shall an articulation feature provided along one building wall be credited as an articulation feature on a different wall.

##### i. PRIMARY BUILDING WALLS

Primary building walls shall be configured to provide at least two types of building articulation listed in Section 6.2.5F.4.b, Types of Building Articulation.

##### ii. SECONDARY BUILDING WALLS

Secondary building walls shall provide at least one of the building articulation types identified in Section 6.2.5F.4.b, Types of Building Articulation.

##### iii. TERTIARY BUILDING WALLS

Tertiary building walls shall not be required to provide any building articulation features.

##### b. TYPES OF BUILDING ARTICULATION

Each of the following seven features shall qualify as one type of building articulation for the purposes of Section 6.2.5F.4.a, Number of Articulation Features Required:

##### i. HORIZONTAL FAÇADE MODULATION

1. Horizontal façade modulation is the projection or recesses of building floor area either forward of primary wall plane or inwards from the primary wall plane.
2. Each individual projection or recess shall have a minimum depth of five feet either beyond or inwards from the primary wall plane.
3. Each individual projection or recess shall have a minimum span of at least 20 percent of the façade's total length.
4. At least 40 percent of the façade's total length shall be occupied by a projection or recess.
5. Individual projections or recesses along a wall shall be separated from one another by at least two linear feet.
6. In the case of multi-story buildings, horizontal façade modulation shall be required only on the first floor for two-story buildings and on the first and second floors for three- or more-story buildings.

##### ii. VERTICAL FAÇADE MODULATION

Vertical façade modulation consists of architectural building elements such as columns, pilasters, posts, bays, fins, ribs, moldings, pediments, arcades, or similar features that extend outwards or recess inwards from the primary wall plan for a minimum distance of two feet. Vertical façade modulation shall extend from the grade to the top of the façade and shall maintain regular spacing across at least 50 percent of the facade.

##### iii. BOW OR CURVILINEAR FEATURE

1. Inclusion of a convex or concave bow or other curvilinear wall feature with a minimum depth or projection of at least ten feet relative to the primary façade plane.
2. Bows or curvilinear features shall occupy at least 50 percent of the total facade length.

<sup>61</sup> See STN# 117



- iv. Inclusion of a series of awnings or overhangs that mimics how such features would be configured if windows were included on the building facade.

## 9. NON-RESIDENTIAL AWNINGS

- a. No awning shall extend outwards from the building wall more than the width of the sidewalk or ten feet, whichever is less.
- b. Awnings must be self-supporting from the building wall.
- c. No supports shall rest on or interfere with the use of pedestrian walkways or streets.
- d. In no case shall any awning extend beyond the street curb or interfere with street trees or public utilities.

## 10. NON-RESIDENTIAL OUTPARCELS<sup>62</sup>

Development on outparcels or pad sites associated with a commercial development shall comply with the following requirements (see Figure 6.2.5.F.10: Outparcel Development):

- a. Buildings on outparcels or pad sites shall incorporate materials that are similar to and compatible with those used on the primary buildings in the development. Corporate or prototypical architecture shall be reconfigured as necessary in order to comply with this standard.
- b. Building walls associated with development on an outparcel or pad site shall be configured solely in accordance with the articulation and fenestration provisions for primary or secondary walls, as appropriate, for the main buildings in the development.
- c. Spaces between buildings on outparcels or pad sites shall include pedestrian amenities such as plazas, seating areas, and gathering places in addition to off-street parking spaces.
- d. Outparcel buildings on lots at street corners shall be located and configured to define the corner through a combination of two or more of the following features:
  - i. Locating the building as close to the rights-of-way as is practicable;
  - ii. Limiting surface parking between the building and the streets;
  - iii. Providing a public gathering space adjacent to the corner; and
  - iv. Use of distinctive roof form or other pedestrian features such as porches, canopies, or arcades.

#### b. FENESTRATION<sup>63</sup>

Building walls on large format retail uses shall incorporate fenestration features in accordance with the following standards (see Figure 6.2.5.G, Large Retail Building Fenestration):

##### i. PRIMARY BUILDING WALLS

Primary building walls shall be configured so that at least 10 percent of the first-floor portion of the primary wall is occupied by visually transparent windows or doors; and no more than 50 percent of any single window or door is obstructed by a window sign or other opaque display.

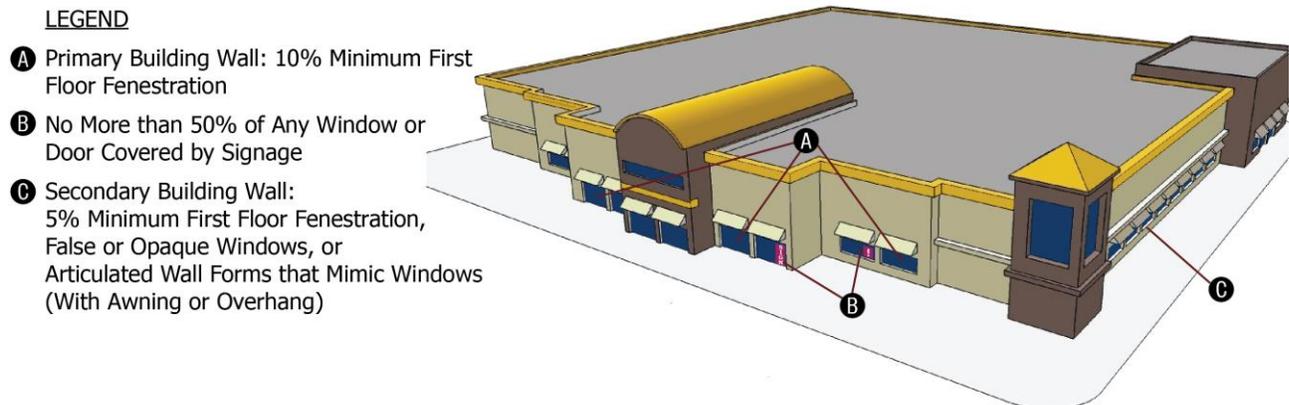
##### ii. SECONDARY BUILDING WALLS

Secondary building walls shall be configured so that at least five percent of the ground floor façade is occupied by visually transparent windows or doors; false or opaque windows; or articulated wall forms designed to mimic window openings that also include an overhang or awning.

##### iii. ALTERNATIVES

Large retail buildings may utilize the fenestration alternatives in Section 6.2.5F.8.c, Alternatives to Visually Transparent Windows and Doors, to comply with these requirements.

**FIGURE 6.2.5.G: LARGE RETAIL BUILDING FENESTRATION**



#### c. OFF-STREET PARKING LOCATION

- i. Sites comprised of large format retail uses subject to these design standards shall be configured such that no more than 75 percent of the provided off-street parking shall be located between a building's primary building façade and the street it faces.
- ii. Off-street parking serving large format retail development located within a Gateway Overlay District shall be configured in accordance with the applicable requirements in Section 3.7.3, GTOD Gateway Overlay District.

<sup>63</sup> See STN#83

## 6.2.6 SINGLE-FAMILY RESIDENTIAL DESIGN GUIDELINES

### A. PURPOSE AND INTENT<sup>64</sup>

These residential design guidelines are proposed as ways to ensure that new single-family detached, and duplex, triplex, and quadplex housing is high quality, aesthetically pleasing, and provides a wide variety of living options for Town residents. More specifically, these guidelines are intended to:

1. Ensure single-family detached, and duplex, triplex, and quadplex homes maintain consistent exterior materials and architectural treatments on the front and sides of buildings;
2. Establish guidance regarding changes of exterior finishes and materials on individual facades;
3. Avoid garage-dominated street fronts in residential neighborhoods;
4. Encourage duplex structures to appear as single-family homes; and
5. Ensure an adequate level of variability in single-family home design so as to avoid monotonous streetscapes where every dwelling appears identical or very similar to its neighboring dwellings.

### B. APPLICABILITY

1. Single-family detached, duplex, triplex, and quadplex dwellings shall comply with these guidelines in the following instances:
  - a. When proposed development is subject to a signed statement of consent in accordance with Section 6.2.6C, Statement of Consent; and
  - b. When compliance with these guidelines is included as a condition of approval associated with a type 3 Conditional Rezoning (see Section 2.3.6, Conditional Rezoning).
2. Single-family detached, duplex, triplex, and quadplex dwellings not subject to a statement of consent are not required to comply with these guidelines, though conformance is strongly encouraged.

### C. STATEMENT OF CONSENT

1. Compliance with the design guidelines in this section is voluntary and at the discretion of the applicant. In cases where an applicant chooses to comply with the guidelines in this section, the landowner shall sign the following statement of consent and include it with the application for a Preliminary Plat, Final, Plat Special Use Permit, Site Plan, or Building Permit, as appropriate.

#### **VOLUNTARY COMPLIANCE WITH RESIDENTIAL DESIGN GUIDELINES**

The single-family detached, duplex, triplex, or quadplex depicted on the attached site plan, subdivision plat, or other development approval is subject to the Town of Clayton's Single-Family Residential Design Guidelines in place at the time the application for this development was determined to be complete. I hereby voluntarily consent to the application of these design guidelines, this acceptance of which shall run with the land regardless of changes in ownership, and recognize that failure to comply with the applicable guidelines following approval is a violation of the Clayton Unified Development Ordinance.

<sup>64</sup> See STN#85



Landowner Signature \_\_\_\_\_

Date \_\_\_\_\_

2. The signed statement of consent and the development approval shall be recorded in the office of the Register of Deeds for the county where the development is located prior to issuance of a Building Permit.
3. When the guidelines are to be applied to lots within a subdivision, the Final Plat shall include a disclosure statement that all lots shown on the plat shall be subject to these guidelines.

#### D. DESIGN FEATURES

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##### 1. SIDE AND REAR FACADES

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- a. Although the front facade of a principal building is expected to be the primary focal point in terms of architectural character and features, all sides of a building shall incorporate architectural detailing and windows that complement the front facade and provide visual interest.
- b. Blank walls void of windows and architectural detailing are prohibited when adjacent to a street.

##### 2. FOUNDATION MATERIALS <sup>65</sup>

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- a. Poured concrete foundations, concrete block foundations, or smooth-faced concrete masonry unit foundations shall be covered by decks, porches, or be clad in face brick, stone, stucco, or some other masonry material accurately imitating these materials. ~~in no instance shall poured concrete, concrete block, or smooth-faced concrete masonry unit foundations be visible on a front or street-facing facade.~~
- b. In cases where a dwelling includes a finished or unfinished basement, the exterior basement walls on the rear or on sides not visible from streets are exempted from these standards.

##### 3. MATERIAL CHANGES

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- a. Exterior materials on the front façade shall not change at outside corners, but shall continue along side or rear facades for a minimum distance of at least five feet. Wherever possible, materials shall continue to a logical termination point such as a change in roof line or where a separate wing meets the main body of the dwelling (see Figure 6.2.6.D.3, Exterior Material Changes).
- b. Exterior material changes shall take place along a horizontal line where two forms meet, such as the wall and the foundation, the first and second stories, or the wall and roof. It is acceptable for material changes to be configured as architectural accents in areas around windows, doors, cornices, at corners, or in a repeating pattern across a façade.
- c. Where two or more exterior materials meet or are combined, the heavier or more massive material shall be located below the lighter element(s). For example, brick below wood siding, stone below brick, wood siding below stucco, etc.
- d. It is acceptable for heavier materials to be used as accents around doors, windows, and corners.

<sup>65</sup> See STN#87



- b. For the purposes of this section, “distinctly different” shall mean that a dwelling must differ from other adjacent and opposing dwellings in at least six-four of the following ways (see Figure 6.2.6.D.9: Distinction Options):
- i. A discernable exterior primary color variation, not a slight variation of a similar hue, such as beige or pastel;
  - ii. Variation in exterior materials;
  - iii. Use of two or more distinct variations in roof forms (e.g., gable, hip, shed, mansard, gambrel, flat, or other);
  - iv. Variations in the number of building stories of at least one story;
  - v. Variation in the amount of habitable space by 400 square feet or more;
  - vi. A change in the depth of the setback from the street which gives the dwelling its street address by 15 feet or more;
  - vii. Changes in the type and color of roofing material on structures with pitched roofs;
  - viii. The orientation of the longest building axis to the street the dwelling faces, whether parallel, perpendicular, or at an angle;
  - ix. The orientation of primary roof ridgeline to the street the dwelling faces, whether parallel, perpendicular, or at an angle.

**FIGURE 6.2.6.D.9: DISTINCTION OPTIONS**

**LEGEND**

- |                             |                                    |   |
|-----------------------------|------------------------------------|---|
| <b>A</b> Color              | <b>D</b> Number of Stories         | <b>G</b> Roofing Type/Color                     |
| <b>B</b> Exterior Materials | <b>E</b> Amount of Habitable Space | <b>H</b> Orientation of Building Axis to Street |
| <b>C</b> Roof Form          | <b>F</b> Depth of Setback          | <b>I</b> Orientation of Primary Roof Ridgeline  |



#### C. **PROFESSIONAL PREPARATION** ~~CERTIFICATION REQUIRED~~<sup>67</sup>

~~Certification~~ A lighting plan shall be prepared by a professional who is qualified to prepare such documents must be provided by the person preparing a lighting plan that the proposed development complies with the exterior lighting standards of this section.

### 6.4.6 EXTERIOR LIGHTING STANDARDS

All exterior lighting fixtures on any portion of a site shall meet the following requirements:

#### A. **APPEARANCE**

1. Exterior lighting fixtures shall be designed as an integral element that complements the design of the project through compatible style, material, and color.
2. Exterior lighting fixtures shall be designed in a consistent and coordinated manner for the entire site.
3. Light poles, bases, and housings shall be matte or low-gloss finish to minimize glare from the light source.

#### B. **ARCHITECTURAL LIGHTING**

1. Shielded floodlights, spotlights, or any other similar lighting may be used to accent architectural elements but shall not be used to illuminate entire building facades.
2. Only lighting used to accent architectural features, landscaping, flags, or art may be directed upwards; however, such uplighting shall be shielded, directed away from off-site view, and shall be limited to a light source of 50 watts or less.

#### C. **FIXTURE HEIGHT**

1. Lighting fixtures shall be a maximum of 25 feet in height within a parking lot and shall be a maximum of 16 feet in height within non-vehicular pedestrian areas.
2. Except within the Downtown District, no exterior light fixtures, where pole-mounted or building mounted, located within 50 feet of any single-family detached or duplex dwelling shall exceed 16 feet in height.

#### D. **LAMP TYPE**

1. Incandescent, florescent, metal halide, light-emitting diode (LED), or color corrected high-pressure sodium lamps are permitted. Other lamp types are allowed when the color emitted is similar to the permitted lamp types.
2. Low-pressure sodium, non-color-corrected high-pressure sodium, and mercury vapor light sources are prohibited.
3. The same lamp type must be used for the same or similar types of lighting throughout a development.

#### E. **MAXIMUM ILLUMINATION LEVELS**

New development subject to these standards shall be configured so that the maximum illumination level at the lot lines of the new development complies with the limitations as specified in Table 6.4.6, Maximum Illumination Levels.

<sup>67</sup> See STN#91



#### G. SHIELDING

1. Overhead lighting fixtures shall be designed to prevent light from emitting upwards towards the sky (see Figure 6.4.6.G: Light Shielding).
2. Under canopy lighting fixtures shall be recessed within the canopy so that no source of illumination is visible except from directly underneath the light fixture.
3. Wall packs and floodlights shall be shielded (e.g., true full cut-off type bulb or light source not visible from off-site) and configured to direct light downwards rather than outwards.

**FIGURE 6.4.6.G: LIGHT SHIELDING**

LEGEND

- A** Full Cut-off Lighting  
Designed to Direct Light  
Downward
- B** Under Canopy Fixture  
Completely Recessed
- C** Full Cut-off Wall Packs
- D** Light Source Not Visible  
From Residential Uses
- E** LED Lighting around  
windows is prohibited



### 6.4.7 STANDARDS FOR SPECIFIC SITE FEATURES AND USES

#### A. BUILDING ENTRANCES AND GATHERING AREAS

Entrances to buildings and outdoor gathering spaces available for use by the general public after dusk shall be illuminated to provide safety and security, subject to Section 6.4.6, Exterior Lighting Standards.

#### B. OUTDOOR RECREATION AND PERFORMANCE USES

Exterior lighting of outdoor recreation, sports areas, athletic fields and courts, and outdoor performance areas shall comply with the following standards:

##### 1. GLARE CONTROL PACKAGE

All lighting fixtures subject to these standards shall be equipped with a glare control package (e.g., louvers, shields, or similar devices) and be aimed so that their beams are directed and fall solely within the designated playing or performance areas.



2. The Town shall not be responsible for any private or commonly-held subdivision drainage infrastructure connected to publicly-maintained drainage facilities, streams, or other outlets having constant flow.

## E. TIMING

1. All required drainage facilities shall be constructed prior to approval of a Final Plat (see Section 2.3.17G, Stage 3, Final Plat), or a Certificate of Occupancy (see Section 2.3.5, Certificate of Occupancy).
2. In the case of phased development, drainage facilities shall be completed for the active phase of development unless an alternative configuration is warranted in accordance with Section 2.4.13, Phased Development.

## 6.5.7 EASEMENTS

Easements for infrastructure shall be required when infrastructure is located outside a public street right-of-way or land owned by the Town. Easements, where required, shall be configured in accordance with the following standards:

### A. GENERALLY

#### 1. EASEMENTS DISTINGUISHED

- a. Easements shall take one of the following forms:
  - i. An access easement;
  - ii. A drainage easement;
  - iii. A maintenance easement;
  - iv. A public utility easement; or
  - v. A roadway slope easement.
- b. All easements shall be either public easements or private easements. Public easements are granted in favor of the Town, the NCDOT, or some other governmental entity. Private easements are granted in favor of an owners' association or to one or more individual landowners.

#### 2. ALLOWABLE FEATURES

- a. No landscaping, signage, fences, walls, patios, decks, or secondary structures shall be located within a public utility easement or a drainage easement.
- b. Greenways, configured in accordance with Section 6.10.1A.1, Greenways, may be located within a public utility easement.
- c. Parking lots, driveways, and vehicular accessways may be located within any type of easement provided the purpose and function of the easement are not interrupted and provided the Town may access utility features, such as valves or manholes, at all times.

#### 3. AUTHORIZATION FOR ENCROACHMENT INTO EASEMENT

Placement of a building, structure, use, or activity within an easement by a party other than an easement holder shall require the prior permission of the easement holder.

#### 3.4. AUTHORIZATION FOR REMOVAL OF FEATURES IN EASEMENT

- a. In the event landscaping or other structure located within a public easement must be removed in order to gain access or conduct maintenance, the Town may remove such features at the owner's expense and shall not be required to replace any removed landscaping or other structures located within a designated public easement.

ensure that the development will be able to comply with the water supply system requirements of this Ordinance.

**B. CONNECTION TO PUBLIC POTABLE WATER SYSTEM**

**1. WITHIN THE CORPORATE LIMITS<sup>68</sup>**

- a. Each new development and each lot in all major subdivisions within the Town’s corporate limits, and each development and lot in all major subdivisions in the extraterritorial jurisdiction located within a specified distance of an existing or approved but not yet constructed public potable water system shall be connected, at the developer’s expense to the Town’s potable water system. Mandatory connections to the public potable water system shall be in accordance with Table 6.5.10, Mandatory Water System Connection Required.

<b>TABLE 6.5.10: MANDATORY WATER SYSTEM CONNECTION REQUIRED</b>	
<b>TYPE OF DEVELOPMENT</b>	<b>MAXIMUM DISTANCE FROM EXISTING PUBLIC WATER SYSTEM BEFORE WATER SYSTEM CONNECTION IS NO LONGER REQUIRED (FEET) [1]</b>
<b>SINGLE-FAMILY DETACHED RESIDENTIAL SUBDIVISION (BY # OF LOTS)</b> <small>AMENDED 4.15.24 (UDOTA1-24)</small>	
6-20	300
21-50	500
51-100	1,000
More than 100	Connection is mandatory regardless of distance
<b>ALL OTHER RESIDENTIAL SUBDIVISIONS, NON-RESIDENTIAL DEVELOPMENT, AND MIXED-USE DEVELOPMENT</b> <small>AMENDED 4.15.24 (UDOTA1-24)</small>	
1 or more lots	1,000 [2]
<b>NOTES:</b> <small>AMENDED 4.15.24 (UDOTA1-24)</small> [1] Measured <u>in a straight line</u> from closest point of proposed development to the existing or approved but not yet constructed public potable water system. [2] If connection to a public potable water system is required, connection to the public sewer system is also required.	

- b. In the event a single-family detached residential subdivision has 100 or fewer lots and is farther from an existing water system water supply source than the maximum distance required in Table 6.5.10, Mandatory Water System Connection Required, the applicant may choose to connect the development to the public potable water supply system, but such connection is voluntary and is not required. **AMENDED 4.15.24 (UDOTA1-24)**
- c. In the event a subdivision other than one devoted to single family detached residential development, a non-residential development, or a mixed-use development is farther from an existing water system water supply source than the maximum distance required in Table 6.5.10, Mandatory Water System Connection Required, the applicant may choose to connect the development to the public potable water supply system, but such connection is voluntary and is not required. **AMENDED 4.15.24 (UDOTA1-24)**

<sup>68</sup> See STN#97



## I. STREET NAMES

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

## J. STREET SIGNS

---

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

## K. TRAFFIC CONTROL DEVICES

---

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

## L. VEHICULAR GATES<sup>69</sup>

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

AMENDED 4.15.24 (UDOTA1-24)

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

**6.5.13 WASTEWATER**

All development connected to a potable water supply shall include a wastewater treatment system configured to comply with the following standards:

**A. WASTEWATER TREATMENT SYSTEM REQUIRED**

1. Every development, building lot, and manufactured home space shall be served by a wastewater treatment or disposal system that is adequate to accommodate the reasonable needs of the use(s) or lot(s) and complies with all applicable Town, County, and State requirements.
2. All materials and pipes shall be provided by the subdivider and shall meet or exceed the requirements established by a State, Town, or utility service provider requirements for wastewater.
3. The Town may, before issuing any approval under this Ordinance, make the investigation and require the developer to submit the information as appears reasonably necessary to ensure that the development will be able to comply with the wastewater treatment or disposal system requirements of this Ordinance.

**B. CONNECTION TO PUBLIC WASTEWATER TREATMENT SYSTEM**

**1. WITHIN THE CORPORATE LIMITS<sup>70</sup>**

- a. Each new development and each lot in all major subdivisions within the Town’s corporate limits, and each development and lot in all major subdivisions in the extraterritorial jurisdiction located within a specified distance of an existing or approved but not yet constructed gravity-fed public wastewater treatment line shall be connected, at the developer’s expense to the Town’s wastewater treatment system. Mandatory connections to public sanitary sewer service shall be in accordance with Table 6.5.13.B, Mandatory Sewer System Connection Required.

**TABLE 6.5.13.B: MANDATORY SEWER SYSTEM CONNECTION REQUIRED**

TYPE OF DEVELOPMENT	MAXIMUM DISTANCE FROM EXISTING PUBLIC SEWER SYSTEM BEFORE SEWER SYSTEM CONNECTION IS NO LONGER REQUIRED (FEET) [1]
<b>SINGLE-FAMILY DETACHED RESIDENTIAL SUBDIVISION (BY # OF LOTS)</b> <small>AMENDED 4.15.24 (UDOTA1-24)</small>	
6-20	300
21-50	500
51-100	1,000
More than 100	Connection is mandatory within 5,000 linear feet
<b>ALL OTHER RESIDENTIAL SUBDIVISIONS, NON-RESIDENTIAL DEVELOPMENT, AND MIXED-USE DEVELOPMENT</b> <small>AMENDED 4.15.24 (UDOTA1-24)</small>	
1 or more lots	1,000 [2]

**NOTES:**

**AMENDED 4.15.24 (UDOTA1-24)**

[1] Measured in a straight line from closest point of proposed development to the existing or approved but not yet constructed public sewer system.

<sup>70</sup> See STN#97



#### C. PHASED DEVELOPMENT

Development subject to these standards that is planned in phases may submit a landscape plan for the entire development, or separate landscape plans for each phase, which shall be approved as part of development of that phase.

#### 6.6.5 LANDSCAPING TIMING

- A. A Certificate of Occupancy shall not be issued, until all required landscaping and screening have been placed in accordance with the approved Site Plan, Subdivision Plat, or other approval, and requirements of this section.
- B. A temporary Certificate of Occupancy may be issued by the [Building Inspector/Inspections Director](#) for a period of up to 30 days under circumstances that would affect the seeding and planting of the site, or until the proper planting season is reached to complete the landscaping requirements, and may be extended up to 90 days upon approval of the request to the Planning Director.
- C. In cases where a temporary Certificate of Occupancy is requested, the applicant shall furnish the following:
  1. A signed contract for the installation of all required landscape materials; and
  2. A performance guarantee for the amount of the contract configured in accordance with the standards in [Section 2.3.19, Performance Guarantee](#).

#### 6.6.6 MAINTENANCE AND INSPECTION REQUIRED

##### A. RESPONSIBILITY

1. The responsibility for maintenance of required landscaping areas shall remain with the landowner, their successors, heirs, assignees, or any consenting grantee.
2. Maintenance is required in order to ensure the proper functioning of landscaping and screening material.
3. Failure to adequately maintain required landscaping or screening material is a violation of this Ordinance subject to the remedies and penalties in Chapter 7, Violations.

##### B. MAINTENANCE

1. All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to: watering, mulching, fertilizing, pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.
2. Necessary pruning and trimming shall be accomplished in accordance with the Tree Care Industry Association (TCIA) Standards for the Professional Arborist, and shall not include:
  - a. The topping of trees;
  - b. Removal of 30 percent or more of the crown material in one calendar year;
  - c. Removal of the central leader; or
  - d. Any other similarly severe procedures that may cause irreparable harm to the natural form of the tree.
3. Dead or diseased plantings shall be removed. Unless specifically exempted (such as understory trees shaded by canopy trees), replacement plantings shall be provided for any dead, diseased, or removed vegetation when such replacement plantings are necessary to meet the standards or this Ordinance or maintain the screening objective of the landscaping material.
4. Landscape structural features such as walls, fences, berms, or water features shall be maintained in a structurally safe and attractive condition.



#### 6.6.11 OFF-STREET PARKING LOT LANDSCAPING

All off-street parking lots with five or more spaces serving multi-family, single-family attached residential, mixed-use, and non-residential developments shall comply with the following parking lot landscaping standards:

##### A. INTERIOR PLANTINGS

###### 1. AREA TO BE LANDSCAPED

For the purposes of this section, the interior of a parking lot shall be all of the area within the outer boundary of the parking lot including interior and corner landscape islands intended to fulfill the interior parking lot landscaping requirements, but not including landscaping planted around the perimeter of the parking lot (see Figure 6.6.11.A, Parking Lot Interior Plantings).

###### 2. LANDSCAPING ISLANDS AND STRIPS<sup>71</sup>

A parking aisle with 12 or more vehicle spaces in a single row shall provide and maintain landscaping islands at each end of the row as well as a landscaping island located every 12 spaces, in accordance with the following standards:

- a. Islands shall have no minimum dimension less than nine feet and a minimum area of 180 square feet, including the curb (if curbing is provided);
- b. Landscape islands that do not contain canopy trees shall contain three or more shrubs and also may contain understory trees;
- c. Off-street parking lots of 100 or more spaces shall include at least one landscaping strip for every six rows of parking spaces; and
- d. Landscaping strips, when required, shall maintain a minimum width of nine feet and run the full length of a row of parking spaces. Landscape strips shall include shrubs and a pedestrian walkway of at least four feet in width and configured to comply with applicable ADA requirements, and may include trees and parking lot lighting, provided tree trunks are at least five feet from the pedestrian accessway.

###### 3. PROTECTION OF LANDSCAPE ISLANDS

- a. Landscape islands shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods.
- b. The placement of plant material within landscape islands shall allow for a two-and-one-half-foot vehicle overhang from the face of the curb or wheel stop.

###### 4. PROTECTION FROM PEDESTRIAN WALKWAYS

In cases where a pedestrian walkway must be located within five feet of a tree trunk, wooden walkways, pervious pavers, or other methods shall be used to ensure the required tree is not damaged by the walkway.

###### 5. STORMWATER MANAGEMENT

A landscape island may be designed to function as a stormwater control measure, provided its landscaping performance function is maintained.

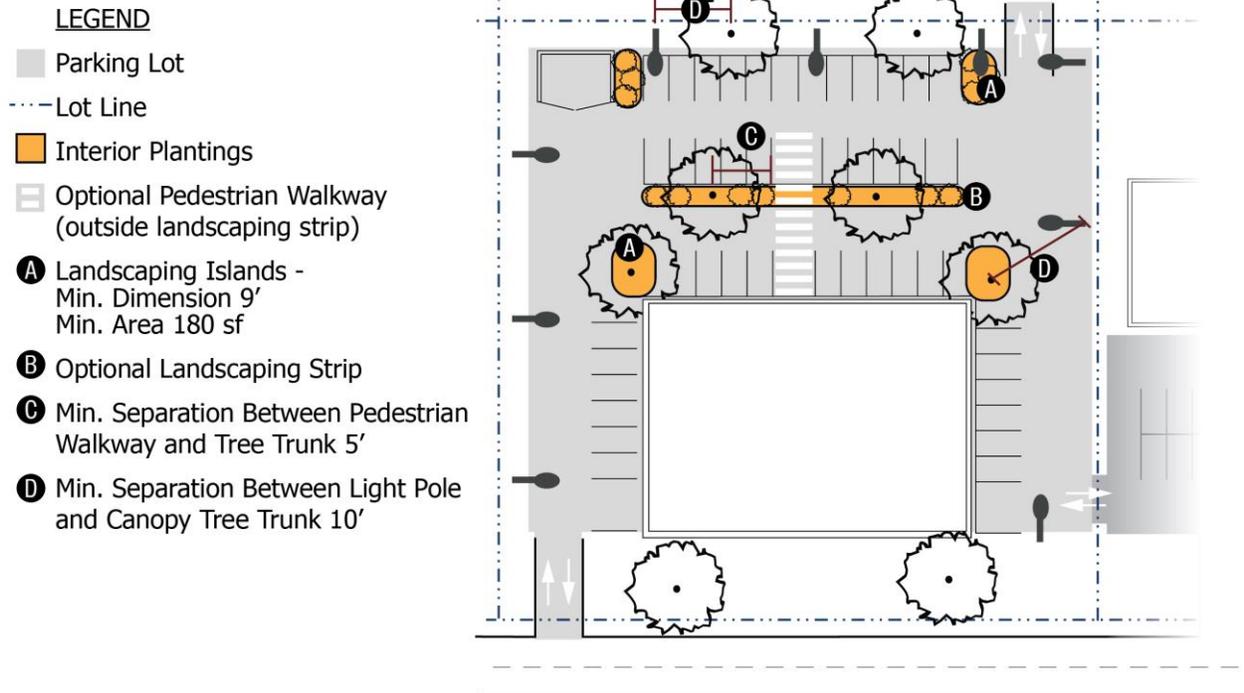
<sup>71</sup> See STN#11



#### 6. STRUCTURAL SOIL REQUIRED

Landscaping islands and strips located within a parking lot shall be comprised of properly-prepared structural soil that has been amended and cultivated to support healthy vegetation.

**FIGURE 6.6.11.A: PARKING LOT INTERIOR PLANTINGS**



#### B. PERIMETER PLANTINGS

##### 1. INTENT

Parking lot perimeter landscaping shall be designed to soften the view of the parking lot from an abutting street or development and to filter spillover light from vehicle headlights. Required plant material shall be planted in such a way as to best achieve this intent.

##### 2. LOCATION

Required plant material shall be placed adjacent to the perimeter of the parking lot. Landscaping material located within the boundaries of the parking lot paving shall not be credited towards these perimeter planting requirements.

##### 3. PLANTING RATE

Parking lot perimeter landscaping shall consist of a single continuous row of evergreen shrubs planted no greater than three feet on-center and within five feet of the parking lot edge.

**TABLE 6.6.13.E: SCREENING METHODS [1]**

**LEVEL OF SCREENING**

Requirements

**C. SCREENING LEVEL 3 CHAIN LINK FENCE WITH SEMI-OPAQUE SLATS/FABRIC**



- i. Fencing must be configured in accordance with Section 6.3, Fences and Walls.
- ii. All fencing shall remain subject to maximum fence or wall height standards for the district where located.
- iii. Fencing shall be at least 60 percent opaque, when viewed from a distance of 10 feet or more.
- iv. All gates shall maintain a complimentarycomplementary level of opacity excluding gaps for mounting hardware, latches, and hinges.
- v. Slats or fabric shall extend downwards to the grade level.
- vi. The fence and screening material shall be comprised of consistent materials and shall maintain a single color.
- vii. Slats may be plastic or wood and shall be promptly repaired if damaged in any way.

**D. SCREENING LEVEL 4 CHAIN LINK FENCE WITH FULLY OPAQUE SLATS/FABRIC**



- i. Fencing must be configured in accordance with Section 6.3, Fences and Walls.
- ii. All fencing shall maintain a minimum height of six feet above adjacent grade, but shall not exceed the maximum fence height standards for the district where located.
- iii. Fencing shall be 100 percent opaque, when viewed from a distance of 10 feet or more.
- iv. All gates shall maintain a complimentarycomplementary level of opacity excluding gaps for mounting hardware, latches, and hinges.
- v. Slats or fabric shall extend downwards to the grade level.
- vi. The fence and screening material shall be comprised of consistent materials and shall maintain a single color.
- vii. Slats may be plastic or wood and shall be promptly repaired if damaged in any way.



**TABLE 6.6.13.E: SCREENING METHODS [1]**

**LEVEL OF SCREENING**

Requirements

**E. SCREENING LEVEL 5 WOODEN OPAQUE FENCE**



- i. Fencing shall be configured in accordance with Section 6.3, Fences and Walls, and the North Carolina Building Code.
- ii. All fencing shall maintain the minimum height necessary to fully screen the site feature or activity, but shall not exceed a maximum height of 10 feet.
- iii. All gates shall maintain a complimentarycomplementary level of opacity excluding gaps for mounting hardware, latches, and hinges.
- iv. The fence shall be comprised of consistent materials and colors.
- v. Enclosures for refuse and recycling containers shall meet all applicable Town requirements for such enclosures.
- vi. Screening material shall be promptly repaired if damaged in any way.

**F. SCREENING LEVEL 6 OPAQUE MASONRY WALL**



- i. Walls shall be configured in accordance with Section 6.3, Fences and Walls.
- ii. All walls shall maintain the minimum height necessary to fully screen the site feature or activity, but shall not exceed a maximum height of 10 feet.
- iii. The wall shall be comprised of consistent materials and colors to those used on the principal structure.
- iv. Masonry walls may incorporate louvers or similar features, provided the screening function is maintained.
- v. All gates shall be comprised of a complimentarycomplementary material and be opaque, excluding gaps for mounting hardware, latches, and hinges.
- vi. Support columns may exceed the maximum height as necessary for wall construction.
- vii. Enclosures for refuse and recycling containers shall meet all applicable Town requirements for such enclosures.
- viii. Screening material shall be promptly aired if damaged in a manner that reduces the screening function.



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

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

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

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

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

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

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

**a. ALLOWABLE FEATURES**

The land area occupied by any of the following types of features is credited towards required passive open space set-aside:

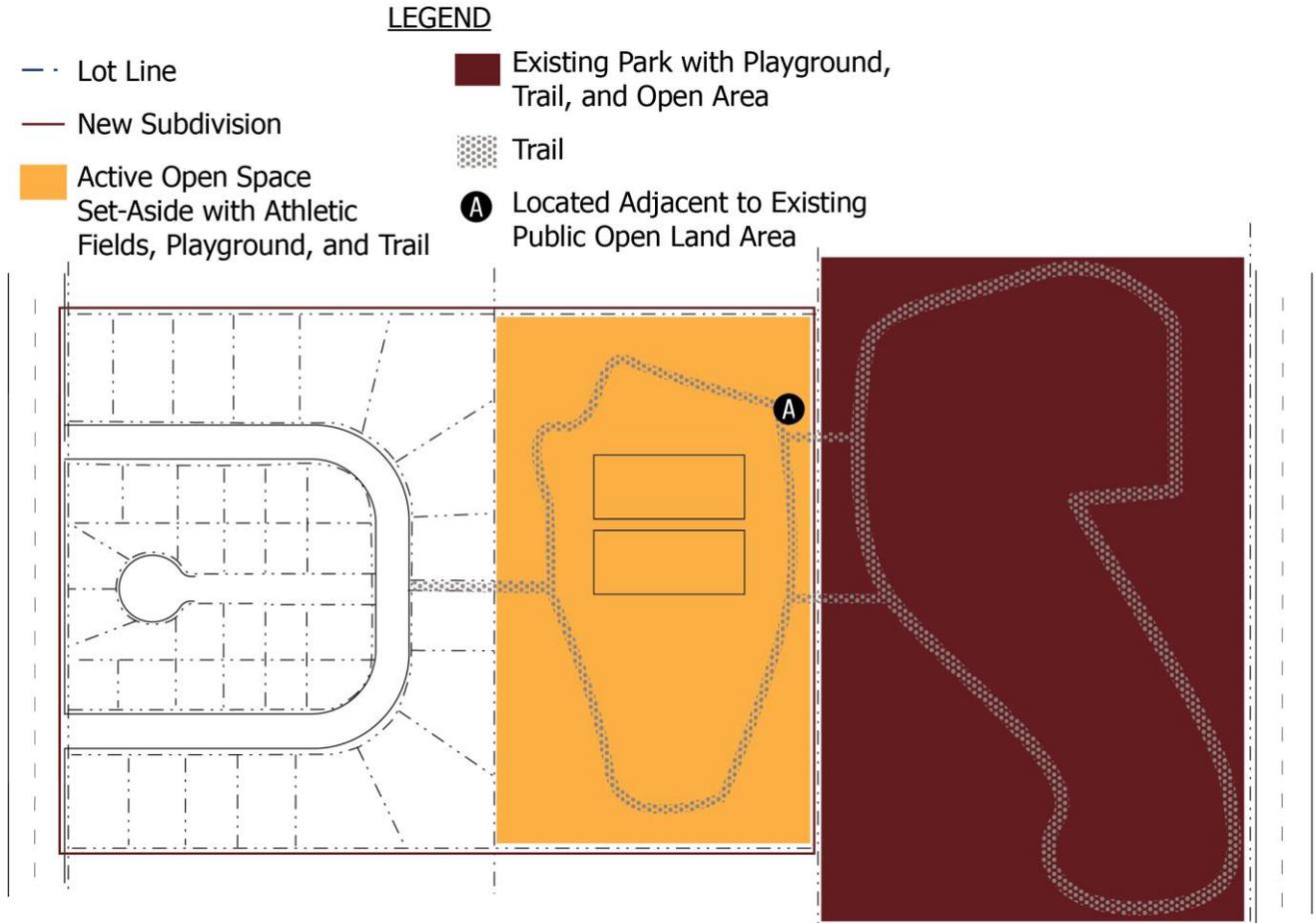
- i. Walking, bicycling, and equestrian trails outside of greenways;
- ii. Boardwalks outside of greenways;
- iii. Gardens;
- iv. Benches and seating areas;
- v. Tables, grills, and related picnicking facilities;
- vi. Lawn areas and community greens;
- vii. Lakes, ponds, wetlands, swamps, canals, and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

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

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



FIGURE 6.7.1.E.1: OPEN SPACE CONTINUATION



### b. ALLOWABLE FEATURES

The following types of features are allowable in and credited towards active open space set-asides:

- i. Lands dedicated for public parks or greenways;
- ii. Swimming pools, splash pads, and areas devoted to water play for children;
- iii. Athletic fields and courts;
- iv. Boat launches and swimming platforms;
- v. Club houses and shelters;
- vi. Playgrounds and play structures for children; ~~and~~
- vii. Obstacle courses and exercise trails; and
- viii. Easements for access, drainage, maintenance, or public utilities.

### 3. GATHERING SPACES

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

#### a. ALLOWABLE FEATURES



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

[#] = Notes at the end of the table

USE TYPE	MINIMUM NUMBER OF REQUIRE OFF-STREET PARKING SPACES [1][2]
Vehicle Parts and Accessory Sales	1 per every 200 sf
Vehicle Towing and/or Storage	1 per employee on the largest shift
Vehicle Washing or Detailing	1 + 1 per employee on largest shift
Veterinary Services, Large Animal	1 + 1 per doctor or care provider
Veterinary Services, Small Animal	1 per every 200 sf
<b>INDUSTRIAL USE CLASSIFICATION</b>	
Asphalt or Concrete Plant	2 per every 3 employees on major shift
Business Incubator	1 per every 450 sf
Contractor Services/Yard	Greater of: 1 per every 300 sf or 1 per every 1,000 sf of outdoor area
Cryptomining and Data Processing	1 per employee on the largest shift
Electrical, HVAC, or Plumbing Fabrication	2 per every 3 employees on largest shift
Extractive Industry	1 + 1 per employee on largest shift
Freight Terminal	2 per every 3 employees on largest shift
Fuel Oil/Bottled Gas Distributor	1 per every 200 sf used by public + 1 per employee on largest shift
Level 2 Solar Energy Conversion	None
Level 3 Solar Energy Conversion	None
Makerspace	1 per every 400 sf
Manufacturing, Heavy, Light, or Medium	2 per every 3 employees on largest shift
Metal Fabrication	2 per every 3 employees on largest shift
Transfer Station	10 + 1 per employee on the largest shift
Recycling Center	1 per every 1,000 sf (min. of 2 spaces)
Research and Development	1 per every 300 sf of office area + 1 per every 500 sf of other floor area
Salvage or Junkyard	3+ 1 per employee on the largest shift
Utility, Major	1 per employee on largest shift
Utility, Minor	None
Warehouse, Distribution/Storage	2 per every 3 employees on largest shift
Wholesale Sales, Indoor Only	1 per every 900 sf
Wholesale Sales, Indoor and Outdoor	1 per every 900 sf + 1, per every 5,000 sf of outdoor area
Wind Energy Conversion	None



#### H. MARKINGS

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

#### I. MINIMUM PARKING LOT STEM LENGTH

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

#### J. PARKING SPACE ACCESS

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

#### K. PEDESTRIAN WALKWAYS

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

#### L. SEPARATION FROM FIRE PROTECTION FACILITIES

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

#### M. SURFACE MATERIALS<sup>72</sup>

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

<sup>72</sup> See STN#16



- g.** The gravel is:
  - i.** Aggregate base course (ABC) of a minimum depth of six inches; or
  - ii.** Number 57 stone, laid over a geotextile fabric, to a minimum depth of four inches in accordance with NCGS§143-214.7; or
  - iii.** An alternative type and depth configuration, as specified by the Engineering Director; and
- 2.h.** The landowner files a maintenance agreement for the gravel parking lot clarifying how the parking lot will be maintained annually.
- 3.4.** Configuration of parking lots in accordance with low impact development practices (see Section 6.17.6, Menu of Sustainable Development Practices) is encouraged.
- 4.5.** Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement unless alternative provisions for drainage are proposed and accepted by the Engineering Director.



**TABLE 8.3: TERMS DEFINED**

TERM	DEFINITION(S)
<b>AGRICULTURAL LAND</b>	Land, including water areas, engaged in the production of crops, plants, livestock, or other agricultural commodities. Agricultural land does not include land used for processing or altering agricultural products.
<b>AGRICULTURAL PACKAGING AND PROCESSING</b>	A commercial establishment engaged in the preparation, processing, and packaging of agricultural products.
<b>AGRICULTURAL STORAGE AND DISTRIBUTION</b>	Commercial establishments devoted to the assembly, storage, and shipment of produce and agricultural products. Such uses do not include farms or places of production.
<b>AGRICULTURE (AGRICULTURAL ACTIVITY)</b>	A commercial establishment engaged in farming, including cultivation of the soil for the growing of crops and the rearing of animals to provide food, wool, and other products for trade or re-sale.
<b>AGRI-TOURISM</b>	Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, hunting, fishing, equestrian activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.
<b>ALLEY</b>	See "Street, Alley."
<b><u>ALLEY, MID-BLOCK</u></b>	<u>See "Mid-Block Alley."</u>
<b>ALL-WEATHER SURFACE</b>	Paving or surface treatment to a walkway or vehicular use area that is capable of withstanding adverse weather while still maintaining its regular or typical surface characteristics.
<b>ALTERATION OF A WATERCOURSE</b>	For the purposes of the Flood Protection Overlay District standards, a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard, or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.
<b>ALTERNATIVE FORM OF COMPLIANCE</b>	Use or a different approach, configuration, set of materials, or other means of complying with a particular standard in this Ordinance that has been considered and approved by the Town.
<b>ALTERNATIVE LANDSCAPE PLAN</b>	See "Plan, Alternative Landscape."
<b>ALTERNATIVE PARKING PLAN</b>	See "Plan, Alternative Parking."



**TABLE 8.3: TERMS DEFINED**

TERM	DEFINITION(S)
<b>MECHANICAL EQUIPMENT</b>	Equipment and fixtures used for HVAC, fabrication, assembly, or production purposes.
<b>METAL FABRICATION</b>	A commercial establishment engaged in the alteration or modification of metal goods, building supplies, tools, or other products comprised primarily of metal. Such uses may include welding, folding, shaping, assembly, coating, or other activity associated with raw forms of metal, but metal fabrication uses are not involved in the creation of metal products from raw materials.
<b>METAL HALIDE</b>	A method of providing illumination by a bulb filled with gas or vapor that provides illumination when an electrical current is passed through it.
<b>MICRO BREWERY, MICRO DISTILLERY, OR MICRO WINERY</b>	An establishment engaged in the production and packaging of malt beverages, wine or spirits for distribution, retail, or wholesale both on and off-premises. A micro brewery is a facility that produces less than 15,000 barrels of beer per year and sells the majority of the beer it produces for off-site resale and consumption. A micro winery produces less than 100,000 gallons of wine per year. A micro distillery produces less than 15,000 gallons of alcoholic spirits per year. Secondary uses may include a taproom, seating areas, ancillary sales of related merchandise, event space, and warehouse space for stored product.
<b>MICRO RETAIL</b>	See "Retail, Micro."
<b>MID-BLOCK ALLEY<sup>73</sup></b>	<u><a href="#">A street, whether public or private, meeting the specifications and configuration of an alley street that transects a single block of lots approximately mid-way along the block face. Mid-block alleys connect streets or connect a street with another alley.</a></u>
<b>MINOR MODIFICATION</b>	An insignificant deviation in an application, proposed development, or portion of a development that does not impact the operation, appearance, function, value, or compatibility of proposed development.
<b>MINOR SUBDIVISION</b>	See "Subdivision, Minor."
<b>MINOR UTILITY</b>	See "Utility, Minor."
<b>MINOR VARIANCE (WATERSHED)</b>	A variance from the minimum statewide watershed protection rules that results in a relaxation by a factor of up to 10 percent of any management requirements.
<b>MIXED-USE DEVELOPMENT</b>	A format that includes some combination of integrated residential, commercial, industrial, or institutional use types in one single building or within one single development that is planned, built, themed, or operated in a unified manner. Mixed use development may include different use types within the same building or different use types within the same development that is comprised of multiple buildings.

<sup>73</sup> See STN#71



**TABLE 8.3: TERMS DEFINED**

TERM	DEFINITION(S)
<b>VEHICLE REPAIR AND SERVICE (NO PAINTING/ BODYWORK)</b>	General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, not including bodywork, framework, welding, and major painting service provided as a principal use or a secondary use to a non-residential establishment.
<b>VEHICLE SALES AND RENTAL</b>	Premises on which new or used passenger automobiles, trailers, recreational vehicles, or light trucks in operating condition are displayed for sale, lease, or rental.
<b>VEHICLE TOWING AND STORAGE<sup>74</sup></b>	An establishment operated for the purpose of temporary storage on-site of operable or inoperable vehicles. <u>Vehicle and towing storage uses include fleet vehicle and recreational vehicle storage establishments.</u> If an establishment stacks vehicles or portions of stored vehicles are dismantled or removed for sale, it shall be considered a salvage and junkyard.
<b>VEHICLE TRIP</b>	For the purposes of calculating transportation impacts, a vehicle trip is a one-way journey taken from an origin to a destination in an automobile or similar private vehicle.
<b>VEHICLE WASHING OR DETAILING</b>	An establishment providing the exterior washing of vehicles where vehicles are manually driven or pulled by a conveyor through a system of rollers and/or brushes. Interior cleaning and/or drying may be conducted manually by vehicle operator or on-site attendants. Incidental sales of automobile-related accessories may take place.
<b>VEHICULAR USE AREA</b>	An off-street parking space or parking lot along with associated drive aisles and means on ingress or egress.
<b>VELOCITY</b>	For the purposes of Soil Erosion and Sedimentation, the speed of flow through a cross section perpendicular to the direction of the main channel at the peak flow of the storm of interest but not exceeding bank full flows.
<b>VENDOR</b>	A person who hawks, peddles, sells, or offers products, including food or beverages for sale.
<b>VERTICAL FAÇADE MODULATION</b>	The organization of an individual building façade into a base, middle, and cap configuration where there are discernable differences in exterior materials, building wall planes, or architectural detailing along the façade from the grade to the top of the building.
<b>VESTED RIGHT</b>	The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in NCGS§ 160D-108, or under common law.
<b>VESTED RIGHTS CERTIFICATE</b>	An authorization granted by Town Council to an approved site-specific development plan that protects the development from the need to comply with some (but not all) regulatory changes that are adopted by the Town during the period which the development is vested.
<b>VETERINARY SERVICES, LARGE ANIMAL</b>	A facility for the care and treatment of large animals, including livestock, domesticated, and exotic animals. Such facilities may be entirely indoors or may have both indoor and outdoor components.

<sup>74</sup> See STN#13, #19



### 9.1.4 CERTIFICATE OF EXEMPTION

Plats deemed to be exempt from the provisions of this ordinance shall contain the following statement.

The plat is exempt from the provisions of the Town of Clayton Unified Development Ordinance and may be recorded with the Office of the Johnston County Register of Deeds.

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

\_\_\_\_\_  
Date

### 9.1.5 CERTIFICATE OF FAMILY SUBDIVISION<sup>75</sup>

Plats deemed to be a family subdivision shall contain the following statement. Any certificate for a Family Subdivision shall also include a certificate of exemption or other certification, as appropriate as well as the Review Officer's Certificate.

#### **LANDOWNER ATTESTATION**

I acknowledge that this plat creating up to one additional lot from the parent tract was approved under the provisions of a Family Subdivision as described in Table 2.2.2 and as defined in the Clayton Unified Development Ordinance, and is solely for the purpose for one immediate family member to homestead on the newly created lot.

\_\_\_\_\_  
Owner/Subdivider

\_\_\_\_\_  
Date

#### **NOTARY PUBLIC CERTIFICATION**

I, \_\_\_\_\_, a Notary Public for said County and State, do hereby certify that

\_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_

Notary

My commission expires \_\_\_\_\_ (Seal)

\_\_\_\_\_, 20\_\_\_\_

<sup>75</sup> See STN#22



### 9.2 INFORMATION REQUIRED WITH APPLICATIONS

#### 9.2.1 APPLICATION MATERIALS<sup>76</sup>

- A. Submission of all applications filed under this Ordinance shall contain the following information, as appropriate.
- B. An "X" in a cell in the table below indicates that the noted information is required on the particular type of plan or plat.
- C. A "•" symbol in a cell in the table below indicates that the noted information is not required on the particular type of plan or plat.
- D. Failure to include one or more required elements indicated with an "X" may result in the application being considered incomplete.
- E. Additional materials may be required in order to determine if an application is complete.
- F. The Planning Director may waive required items listed in the table below if they are determined to not be necessary to complete the review, in the sole discretion of the Planning Director.

**TABLE 9.2: TABLE OF REQUIRED APPLICATION MATERIALS**

"X" = Required  
"•" = Not Required

REQUIRED INFORMATION	CONCEPT PLAN	SITE PLAN	FAMILY SUB.	LIMITED SUB.	MINOR PLAT	PRELIMINARY PLAT	CONSTRUCTION DRAWINGS	FINAL PLAT
Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person	•	X	X	X	X	X	X	X
Certifications from the appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development and that all necessary easements have been provided	•	X	X	•	•	•	X	X
Detailed descriptions of recreational facilities to be provided	•	X	•	•	•	X	•	•
Legal documentation establishing owners' associations or other legal entities responsible for control over required common areas and private infrastructure	•	X	•	•	•	•	•	X
Bonds, letters of credit, or other performance guarantees	•	X	•	X	X	•	•	X

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### TABLE 9.2: TABLE OF REQUIRED APPLICATION MATERIALS

"X" = Required  
"•" = Not Required

REQUIRED INFORMATION	CONCEPT PLAN	SITE PLAN	FAMILY SUB.	LIMITED SUB.	MINOR PLAT	PRELIMINARY PLAT	CONSTRUCTION DRAWINGS	FINAL PLAT
A transportation impact analysis performed and prepared by a qualified transportation or traffic engineer	X	X	•	•	•	X	•	•
Time schedules for the completion of phases in staged development	•	X	•	•	X	X	X	•
The environmental impact of a development, including its effect on historically significant or ecologically fragile or important areas and its impact on pedestrian or traffic safety or congestion	X	X	•	•	X	X	•	X
If any road is proposed to intersect with a state-maintained road, a copy of the application for driveway approval as required by the Department of Transportation, Division of Highways Manual on Driveway Regulation	•	•	X	•	•	•	X	X
Proposed deed restrictions or covenants to be imposed upon newly created lots	•	X	X	X	X	X	•	X
Documentation of submission of an Erosion Control Plan, if disturbing more land area than the maximum permitted without such plan	•	•	•	•	•	•	X	•
Documentation of approval of an Erosion Control Plan, if disturbing more land area than the maximum permitted without such plan	•	•	•	•	•	•	X	•
Evidence of notification to U.S. Army Corps of Engineers of earth-disturbing activities in jurisdictional wetlands, if applicable	•	X	X	X	X	X	X	•
<u>Clarify that the lot may not be sold for a period of at least three years following approval of the plat</u>	•	•	X	•	•	•	•	•

### 9.2.2 REQUIRED INFORMATION FOR PLANS AND/OR PLATS

- A. All plans and plats filed under this Ordinance shall contain the following information.
- B. Failure to include one or more required elements may result in the application being considered incomplete.
- C. An "X" in a cell in the table below indicates that the noted information is required on the particular type of plan or plat.

